

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

March 18, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF CURTIS RYAN - DAY 3
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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And

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PRESENT:

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* * * * *

(Excerpt commenced at 9:44 a.m.)

(Jury seated at 9:44 a.m.)

THE COURT: Good morning and welcome back, everyone.

JURORS: Good morning.

THE COURT: The record will reflect that all our
jurors are present.

I remind the witness that he's still under oath.

THE WITNESS: I understand.

THE COURT: And, Mr. Tripi, you may continue.

MR. TRIPI: Thank you, Your Honor.

C U R T I S R Y A N, having been previously duly called and
sworn, testified further as follows:

DIRECT EXAMINATION BY MR. TRIPI (CONT'D):

Q. When we broke Friday, I'd asked you some questions about
your interview at 85 Alder Place with the defendant, as well

09:45AM 1 as the search that occurred there; do you recall that?

09:45AM 2 A. Yes.

09:45AM 3 Q. And one of the things that was entered into evidence was

09:45AM 4 the box of materials that had been recovered from the

09:45AM 5 basement; do you recall that, as well?

09:45AM 6 A. I do.

09:45AM 7 Q. Now, did you and Special Agent Halliday also work to scan

09:45AM 8 those items that were contained, the paper documents, in that

09:45AM 9 box to make a CD of what was in the box?

09:45AM 10 A. Yes.

09:45AM 11 Q. Okay. And I think that CD also came into evidence on

09:45AM 12 Friday; is that right?

09:45AM 13 A. Yes.

09:45AM 14 Q. Now, there were a couple documents that also got utilized

09:45AM 15 in the investigation that were marked separately; is that

09:45AM 16 correct? Documents that were shown to other witnesses,

09:46AM 17 things like that?

09:46AM 18 A. Yes.

09:46AM 19 Q. I'm going to hand you up a couple things. I'm going to

09:46AM 20 hand you up two exhibits, just for record purposes I have

09:46AM 21 shown them to counsel, they are 100E-1 and 100F-1.

09:46AM 22 Beginning with 100E-1, do you recognize that?

09:46AM 23 A. Yes, I do.

09:46AM 24 Q. Is that a document in its original form that was part of

09:46AM 25 that file that had the name Serio on it?

09:46AM 1 A. Yes.

09:47AM 2 Q. Is it in the same, or substantially the same, condition
09:47AM 3 today other than the fact that now it's in its own evidence
09:47AM 4 bag as when it was recovered?

09:47AM 5 A. Yes.

09:47AM 6 Q. And looking at 100F-1, do you recognize that document?

09:47AM 7 A. Yes, I do.

09:47AM 8 Q. And what do you recognize that to be?

09:47AM 9 A. That's a document that was found in the file, it's a PLX
09:47AM 10 report for telephone tolls.

09:47AM 11 Q. Does that -- is that basically an analysis, analysis of
09:47AM 12 telephone tolls?

09:47AM 13 A. Yes, PLX is a software that helps you analyze telephone
09:47AM 14 records.

09:47AM 15 Q. In the DEA world, what's that called?

09:47AM 16 A. It's commonly referred to as a hot sheet.

09:47AM 17 Q. Okay. Is that a document for -- appear to be a document
09:47AM 18 relating to analysis of Mark Vitale's toll phone tolls?

09:47AM 19 A. Yes. Based off of handwritten information at the top.

09:47AM 20 Q. Okay. Is Government Exhibit 100F-1 also a document that
09:48AM 21 was in that file labelled Ron Serio that's in evidence, and
09:48AM 22 did you take it out and put it in its own separate evidence
09:48AM 23 bag?

09:48AM 24 A. Yes.

09:48AM 25 **MR. TRIPI:** Your Honor, the government moves to offer

1 into evidence Exhibits 100E-1 and 100F-1.

2 **MR. MacKAY:** No objection, Your Honor.

3 **THE COURT:** They're received without objection.

4 **(GOV Exhibits 100E-1 and 100F-1 were received in evidence.)**

5 **MR. TRIPI:** Thank you, Your Honor.

6 **THE COURT:** Are these already in as part of the box?

7 **MR. TRIPI:** Probably. But they were put back and --
8 they have been put back in a folder.

9 **THE COURT:** Yeah, thanks.

10 **MR. TRIPI:** Thank you, Your Honor. Okay. I'll take
11 those back.

12 Your Honor, permission to publish the file, not to
13 have the jury go through the documents, but to publish the
14 file and let the jury see the file --

15 **THE COURT:** Sure.

16 **MR. TRIPI:** -- and to hand it around to one another if
17 they so desire.

18 **THE COURT:** Mr. Tripi?

19 **MR. TRIPI:** So I'm handing Government Exhibit 100A,
20 100E-1 as contained in the folder, and 100F-1.

21 And I'll continue asking questions while this
22 happens, Your Honor.

23 **THE COURT:** Sure.

24 **BY MR. TRIPI:**

25 Q. Now, once all of the -- the search was completed at 85

09:49AM 1 Alder Place on June 6, 2019, were you part of going back to
09:49AM 2 the his office and reviewing everything that had been
09:49AM 3 recovered and ensuring that items were logged into evidence?

09:49AM 4 A. Yes, I was.

09:49AM 5 Q. Were among the items recovered from -- from 85 Alder
09:49AM 6 Place, did it include several wedding cards that -- apparent
09:50AM 7 wedding cards directed from certain individuals to
09:50AM 8 Mr. Bongiovanni?

09:50AM 9 A. Yes.

09:50AM 10 Q. Was one of the wedding cards signed by an individual
09:50AM 11 named Hot Dog?

09:50AM 12 A. Yes.

09:50AM 13 Q. I'm going to hand you up Government Exhibit 100D. And
09:50AM 14 after you look at that, I'm going to direct your attention to
09:50AM 15 100D-2 as contained in the exhibit. Okay?

09:51AM 16 Okay. I'm going to hand you up an Exhibit 100D, and then
09:51AM 17 I'm also going to ask you to look in, at individual -- we
09:52AM 18 marked parts of that exhibit, 100D-1, 2, and 3, okay?

09:52AM 19 A. Yes.

09:52AM 20 Q. Do you recognize 100D generally?

09:52AM 21 A. Yes.

09:52AM 22 Q. What do you recognize Exhibit 100D to be?

09:52AM 23 A. So it's line number 18 from the seizure at 85 Alder Place
09:52AM 24 for our evidence report. And it's -- the outside of the bag
09:52AM 25 identifies it as the cards.

09:52AM 1 Q. And within there, were there various cards that were
09:52AM 2 submarked 100D-1, D-2, and D-3?

09:52AM 3 A. Yes, I see them.

09:52AM 4 Q. Are those in the same or substan -- with respect to
09:53AM 5 100D-1, 2, and 3, are those in the same or substantially same
09:53AM 6 condition today as when they were recovered on June 6th,
09:53AM 7 2019?

09:53AM 8 A. Yes.

09:53AM 9 **MR. TRIPI:** Your Honor, the government offers
09:53AM 10 Exhibit 100D-1, 100D-2 and 100D-3.

09:53AM 11 **MR. MacKAY:** Can I just --

09:53AM 12 **MR. TRIPI:** Yeah.

09:53AM 13 **THE WITNESS:** 1, 2, and 3?

09:53AM 14 **MR. MacKAY:** Judge, I have no objection to D-1 and
09:54AM 15 D-2. D-3 is actually from the Napoli parents, not from Tom
09:54AM 16 Napoli, so the objection would be to relevance.

09:54AM 17 **MR. TRIPI:** I'll withdraw the D-3.

09:54AM 18 **THE COURT:** Okay. So D-1 and D 2 are admitted
09:54AM 19 without objection.

09:54AM 20 **MR. MacKAY:** Yes.

09:54AM 21 **THE COURT:** Okay.

09:54AM 22 **(GOV Exhibits 100D-1 and 100D-2 were received in evidence.)**

09:54AM 23 **MR. TRIPI:** I'm going to leave 100D-1 and D-2 up with
09:54AM 24 the witness, and I'll remove everything else.
25

09:54AM

1 **BY MR. TRIPI:**

09:54AM

2 Q. Special Agent Ryan, can you tell the jury, looking

09:54AM

3 inside, those are both the apparent wedding cards; is that

09:54AM

4 correct?

09:54AM

5 A. Yes.

09:54AM

6 Q. Can you tell the jury who 100D-1 is from, who it's signed

09:54AM

7 by?

09:55AM

8 A. It's signed by Lou Selva.

09:55AM

9 Q. And with respect to 100D-2, can tell the jury who that's

09:55AM

10 from, who it's signed by?

09:55AM

11 A. Hot Dog and Lynn.

09:55AM

12 Q. Okay. I'll take those back, thank you.

09:55AM

13 **MR. TRIPI:** Now, Ms. Champoux, can we pull up

09:55AM

14 Exhibit 46? It would be the list of contacts from Mr. Serio's

09:55AM

15 phone.

09:55AM

16 And can we put that next to Exhibit 109F, these are

09:55AM

17 all in evidence, Your Honor, 109F, the list of contacts that

09:55AM

18 were stipulated in from Mr. Bongiovanni's phone.

09:55AM

19 And on Exhibit 46, can you highlight rows 21 and 22

09:55AM

20 for the jury -- or zoom in, I keep saying highlight --

09:56AM

21 Exhibit 46 on the left, rows 21 and 22.

09:56AM

22 And move that to the top of the screen. And then go

09:56AM

23 to 109F, entry number 49, please, and zoom in on that.

09:56AM

24 **BY MR. TRIPI:**

09:56AM

25 Q. Special Agent Ryan, can you, using Government Exhibit 46

09:56AM 1 in evidence on the top, the Serio contact, can you read row

09:56AM 2 21, the name of the contact and the number associated with

09:56AM 3 the mobile phone?

09:56AM 4 A. Yes. The name is Hot Dog, created May 20, 2016, and the

09:56AM 5 mobile number is 716-866-2687.

09:56AM 6 Q. And is that the -- does that appear to be the same entry

09:57AM 7 in row 22 of that exhibit?

09:57AM 8 A. Yes.

09:57AM 9 Q. Hot Dog, same phone number?

09:57AM 10 A. Same name, same phone number, yes.

09:57AM 11 Q. Now, with respect to 109F, Mr. Bongiovanni's contact from

09:57AM 12 his phone, can you read entry number 49, the name, and then

09:57AM 13 the mobile number?

09:57AM 14 A. Yes, the name is Dog, Hot. And then the mobile number is

09:57AM 15 716-866-2687.

09:57AM 16 Q. Is it the same phone number in both the Serio phone and

09:57AM 17 the Bongiovanni phone?

09:57AM 18 A. Yes.

09:57AM 19 Q. Is it the same name of contact other than in the

09:57AM 20 Bongiovanni phone it's last name Dog, first name Hot?

09:57AM 21 A. Yes.

09:57AM 22 Q. Now, with regard to that person, Hot Dog, was that the

09:58AM 23 same person who signed Government Exhibit 100D-2, the card we

09:58AM 24 just showed you?

09:58AM 25 A. Yes.

09:58AM 1 Q. And that was for Mr. Bongiovanni's wedding?

09:58AM 2 A. Yes.

09:58AM 3 Q. I'm going to hand that card back up. And could you read
09:58AM 4 the -- just read the handwritten part of the card. You don't
09:58AM 5 have to read the preprinted part of the card.

09:58AM 6 A. It says love Hot Dog and Lynn. Honored to be your
09:58AM 7 friends. Many years of happiness.

09:58AM 8 Q. Thank you. Now, with regard to the contact, Hot Dog, did
09:58AM 9 you and Special Agent Halliday review an online funeral
09:58AM 10 memorial, and screenshot a photograph from that memorial
09:59AM 11 regarding the online funeral of the reputed former Buffalo
09:59AM 12 IOC leader, Joseph Todaro Sr.?

09:59AM 13 A. Yes.

09:59AM 14 Q. And was the date of death associated with the funeral
09:59AM 15 video December 26th, 2012?

09:59AM 16 A. Yes.

09:59AM 17 Q. Among the photos contained in the memorial, you could see
09:59AM 18 Hot Dog?

09:59AM 19 A. Yes.

09:59AM 20 Q. I'm going to hand you up Exhibit 393.

09:59AM 21 Do you recognize Government Exhibit 393?

09:59AM 22 A. Yes. It's a photo from a memorial page.

09:59AM 23 Q. And does that fairly and accurately depict the photo from
09:59AM 24 the memorial page that you observed and was memorialized as
09:59AM 25 part of this investigation?

09:59AM 1 A. Yes.

09:59AM 2 **MR. TRIPI:** The government offers Exhibit 393,
09:59AM 3 Your Honor.

09:59AM 4 **MR. MacKAY:** No objection, Your Honor.

09:59AM 5 **THE COURT:** Received without objection.

10:00AM 6 **(GOV Exhibit 393 was received in evidence.)**

10:00AM 7 **MR. TRIPI:** Ms. Champoux, can we keep this exhibit on
10:00AM 8 the screen, and also pull up Exhibit 393 for the jury?

10:00AM 9 **BY MR. TRIPI:**

10:00AM 10 Q. Can you see those images well enough, Special Agent Ryan?

10:00AM 11 A. It's difficult to read the font, if you need me to --

10:00AM 12 Q. Focusing on the photograph, Exhibit 393, is that clear
10:00AM 13 enough, large enough?

10:00AM 14 A. Yes.

10:00AM 15 Q. Can you just tap the screen for the jury and point out
10:00AM 16 Joseph Todaro Sr. in that image?

10:00AM 17 **MR. TRIPI:** May the record reflect he placed a mark
10:00AM 18 on the person in the center of the photo, front row, wearing a
10:01AM 19 light green shirt.

10:01AM 20 **BY MR. TRIPI:**

10:01AM 21 Q. Next, can you place a mark on the individual who is
10:01AM 22 Hot Dog.

10:01AM 23 **MR. TRIPI:** May the record reflect he placed a mark
10:01AM 24 on the individual with the tan shirt whose left hand is on the
10:01AM 25 left shoulder of Mr. Todaro Sr., also near the center of the

photo, but this one is in the second row.

BY MR. TRIPI:

Q. Can you tell the jury Hot Dog's true name?

A. It's Paul Francoforte.

Q. And the person on the other shoulder of Mr. Todaro Sr., do you know who that person is?

A. I do.

Q. Who is that?

A. Victor Sansonise.

Q. Can you put a mark on Mr. Sansonise? By reputation in the law enforcement community, is Mr. Sansonise associated with Italian Organized Crime?

A. Yes.

Q. Is he believed to have a high-up position in the Italian Organized Crime in Buffalo, New York?

A. Yes.

Q. At the time of this photo, was Todaro Sr. believed to be the boss?

A. Yes.

MR. TRIPI: May the record reflect the witness also placed a mark on the person who has their left hand on Todaro Sr.'s right shoulder, this person is also in the second row near the center of the photo.

Okay. Ms. Champoux, we can take down Exhibit 393. And can you leave up Exhibits 46 and 109, please.

Ms. Champoux, with respect to Exhibit 46 which is on the left of the screen, the Serio contacts, can you -- can you please zoom in on entry number 50 and move that to the top of the screen, and highlight Exhibit 109.

BY MR. TRIPI:

Q. With respect to entry number 50 in the Serio contacts, Exhibit 46 at the top of the screen, can you say the name for the jury, Special Agent Ryan?

A. It's Lou Selva.

Q. And can you -- is it spelled wrong, the last name?

A. It appears to be, yes.

Q. And can you -- can you place into the record the phone number of the mobile phone number?

A. From the top, is 716-903-1654.

Q. Now looking at Exhibit 109F, which is zoomed in below entry number 1, is there a name associated with that entry in Mr. Bongiovanni's contacts?

A. Yes, Louie.

Q. And what's the phone number associated with that entry?

A. 716-903-1654.

Q. Is that the same phone number that appears in the Serio contacts, Exhibit 46?

A. Yes.

MR. TRIPI: Ms. Champoux, we can zoom out of those two highlights or zooms.

1 With respect to 46, Ms. Champoux, can you zoom in on
2 number 17, the exhibit on the left?

3 And, Ms. Champoux, the exhibit on the right, Exhibit
4 109F, can you zoom in on entry number 72?

5 **BY MR. TRIPI:**

6 Q. Special Agent Ryan, beginning with the Exhibit 46 at the
7 top of the screen, the Serio contacts, can you tell the jury
8 the name associated with entry number 17 and the phone
9 number?

10 A. Yes. The name is Frank Parisi, and the telephone number
11 is 716-481-8111.

12 Q. And now directing your attention to Exhibit 109F, entry
13 number 72, the contact in Mr. Bongiovanni's phone, can you
14 state the name for the jury?

15 A. Parisi.

16 Q. And can you say the mobile number?

17 A. 716-481-8111.

18 Q. Is that the same entry -- phone number entry in both
19 phones, the Serio phone and the Bongiovanni phone?

20 A. Yes.

21 **MR. TRIPI:** You can zoom out of those, Ms. Champoux.

22 Ms. Champoux, with respect to Exhibit 46, can you
23 zoom in on entry number 5, please. And move that to the top
24 of the screen.

25 And on Exhibit 109F, can you zoom in on entry

10:06AM 1 number 6, please.

10:06AM 2 **BY MR. TRIPI:**

10:06AM 3 Q. Looking at Exhibit 46 at the top of the screen, entry

10:06AM 4 number 5, can you read the name for the jury?

10:06AM 5 A. It says Ash, and then initial S.

10:06AM 6 Q. And can you read the phone number?

10:06AM 7 A. 716-603-0831.

10:06AM 8 Q. And with respect to Exhibit 109F, can you read entry

10:06AM 9 number 6, the name?

10:06AM 10 A. Ashley.

10:06AM 11 Q. And can you read the mobile number?

10:06AM 12 A. 716-603-0831.

10:06AM 13 Q. Are those the same phone number?

10:06AM 14 A. Yes.

10:06AM 15 Q. Is that the same first name?

10:06AM 16 A. Yes.

10:06AM 17 Q. Do you know Defendant Bongiovanni's wife to have a sister

10:06AM 18 named Ashley Schuh?

10:06AM 19 A. Yes.

10:06AM 20 Q. And does Schuh begin with the letter S?

10:06AM 21 A. Yes.

10:06AM 22 Q. So those numbers and the entries appear to be the same in

10:06AM 23 Mr. Serio and Mr. Bongiovanni's phones?

10:06AM 24 A. Yes.

10:07AM 25 **MR. TRIPI:** Ms. Champoux, can we go to Exhibit --

1 zoom out of those, Exhibit 46. Can you go to entry number 1
2 in the Serio phone. Move that to the top of the screen. And
3 entry number 5 on the Bongiovanni phone, 109F.

4 **BY MR. TRIPI:**

5 Q. Special Agent Ryan, starting with Exhibit 46 at the top
6 of the screen, entry number 1, can you read the name for the
7 jury?

8 A. Angelo Natali.

9 Q. Can you read the phone number?

10 A. 716-907-4663.

11 Q. Now going to 109F can you read the name?

12 A. Angelo.

13 Q. Can you read the mobile number?

14 A. 716-907-4663.

15 Q. And is that the same number that Serio had for Angelo
16 Natali in his phone?

17 A. Yes.

18 **MR. TRIPI:** Okay. We can bring -- we can bring that
19 exhibit down, Ms. Champoux. We're going to keep 109F up
20 though. And can you zoom in on entry number 68 in
21 Mr. Bongiovanni's phone, 109F.

22 **BY MR. TRIPI:**

23 Q. And could you read the name associated with that entry,
24 Special Agent Ryan?

25 A. Sinatra, Mike.

1 Q. And can you read the phone number?

2 A. 716-946-8906.

3 Q. Is that name and phone number associated with Michael

4 Sinatra consistent with the Michael Sinatra that his executed

5 a search warrant on January of 2019?

6 A. Yes.

7 **MR. TRIPI:** Could we zoom out of that, and zoom in on

8 entry number 82, please.

9 **BY MR. TRIPI:**

10 Q. And can you read the name and phone number in that entry?

11 A. It's Napoli. And then it looks like Thomas is misspelled

12 with a D in place of the last letter. And the phone number

13 is 716-348-0606.

14 **MR. TRIPI:** Can you zoom out of that and highlight

15 entry number 83, please.

16 **BY MR. TRIPI:**

17 Q. And can you read that for the jury?

18 A. Doctor, Tommy. 716-697-8021.

19 Q. And is that the same name of the person that was in the

20 photo that we've seen several times now, I won't show it

21 again, Government Exhibit 127 with respect to that cottage?

22 A. Yes.

23 **MR. TRIPI:** We can zoom out of that, Ms. Champoux.

24 And can we go to 111.

25

10:10AM

1 **BY MR. TRIPI:**

10:10AM

2 Q. And can you read that name?

10:10AM

3 A. Yep, Massi, Joe.

10:10AM

4 Q. And the number?

10:10AM

5 A. 716-260-6361.

10:10AM

6 Q. Now, a different spelling, but are you familiar with an

10:10AM

7 individual named Joe Mesi who was a boxer in this area?

10:10AM

8 A. Yes.

10:10AM

9 **MR. TRIPI:** You can zoom out of that, please.

10:10AM

10 Now, with respect to the investigation -- you can

10:10AM

11 zoom out of that exhibit altogether, Ms. Champoux.

10:10AM

12 **BY MR. TRIPI:**

10:10AM

13 Q. With respect to this, excuse me, with respect to this

10:10AM

14 overall investigation, did his and Department of Justice OIG

10:10AM

15 make efforts to interview and complete interviews of

10:10AM

16 Bongiovanni's former partner, Joseph Palmieri, at the point

10:11AM

17 in time where he was a retired DEA TFO?

10:11AM

18 A. Yes.

10:11AM

19 Q. Did those interviews occur after Palmieri was served a

10:11AM

20 subject letter from the U.S. Attorney's Office?

10:11AM

21 A. Yes.

10:11AM

22 Q. In a series of interviews with Mr. Palmieri, did he

10:11AM

23 appear to be withholding information related to

10:11AM

24 Mr. Bongiovanni and the investigation --

10:11AM

25 **MR. MacKAY:** Objection.

Q. -- and the investigation of Wayne Anderson?

MR. MacKAY: Judge, this invokes I think to some degree the pretrial ruling. Can we approach on this?

(Sidebar discussion held on the record.)

MR. MacKAY: Judge, if the Court will recall, we did a pretrial motion about excluding polygraph results, and then the component of it was, is the government going to try to backdoor in credibility assessments about these folks. And I think that's sort of what his question evokes, did they believe Palmier is withholding information.

THE COURT: And he's going to testify that he didn't believe Palmieri, or that he thought Palmieri was being disingenuous in what he said?

22 **MR. TRIPI:** That was -- that was gonna be my last
23 question, Your Honor, because it's not getting into the
24 substance of anything he said. They just this morning, I was
25 going to skip over this, but just this morning they've

1 referenced that they're probably going to make applications
2 for missing witnesses, so this provides some context of why
3 the government is not calling Palmieri. So I have the case
4 agent --

5 **THE COURT:** The question is whether he believed
6 Palmieri, unless -- unless it influenced his investigations.

7 **MR. TRIPI:** Well, I think -- here's why. I think the
8 relevance is if they're going to make missing witness charges,
9 we now have -- we have evidence in the record to suggest why
10 the government didn't call Palmieri. So that should knock out
11 some witness, but it also --

12 **THE COURT:** Well, you can argue that to me.

13 **MR. TRIPI:** But there's also a -- for the jury's
14 purposes, there's a chronological or a conceptual gap. One
15 would think that the jury may be wondering why we didn't hear
16 from his partner on the Wayne Anderson file. We've heard
17 Palmieri's name several times. Here's the lead case agent.

18 Regardless of the polygraph, he makes an assessment
19 this is not someone who's on team America, we're not putting
20 any stock in what he says, we're moving on with our
21 investigation.

22 Now, we didn't charge Palmieri yet, but in our
23 pretrial memo, we say that's still out there. I'm happy to
24 carve it, but I --

25 **THE COURT:** Yeah, but so I don't think it's -- you --

1 if it colors what he did in his investigation -- so I think
2 you can ask it, did you follow up with Palmieri, or why didn't
3 you call Palmieri. I think that's okay.

4 And if he says 'cuz he wasn't being honest with us, I
5 think that's fine.

6 But I don't think you can ask him what his opinion is
7 on Palmieri's credibility because --

8 **MR. TRIPI:** I can do it a different way.

9 **THE COURT:** Right.

10 **MR. SINGER:** There's no foundation for it.

11 **THE COURT:** But do you have a problem with him asking
12 what I'm suggesting? To him saying why didn't you follow up
13 with Palmieri?

14 **MR. MacKAY:** I mean, again, to us, it's our position
15 it's not relevant. I mean --

16 **THE COURT:** But it's his investigation. It's the
17 investigation. Why wouldn't -- why wouldn't that have some
18 relevance?

19 **MR. TRIPI:** And, Judge, just for your edification, I
20 think where we're going, the way I'll do it is he applied for
21 and got a search warrant for Palmieri's residence. So,
22 clearly, he didn't believe him.

23 **THE COURT:** Fine.

24 **MR. MacKAY:** I didn't hear that.

25 **MR. TRIPI:** He got a search warrant for Palmieri's

1 residence. And they have that search warrant.

2 **MR. MacKAY:** I think what it amounts to is trying to
3 backdoor in Palmieri without having to call him and dirty him
4 up. That's where our concern lies.

5 **MR. TRIPI:** We don't have to call anyone. We don't
6 have to call Palmieri, he's got a lawyer.

7 **THE COURT:** Yeah, I think that he can -- I think that
8 he can talk about what the investigation was, and why certain
9 steps were taken or not taken, but I don't think it can go
10 beyond that.

11 **MR. MacKAY:** If the objection is sustained, then can
12 we move to strike what came before?

13 **MR. TRIPI:** I don't think I got an answer to the
14 question you objected to.

15 **THE COURT:** Hang on.

16 **MR. MacKAY:** I thought he said --

17 **MR. TRIPI:** What came before --

18 **THE COURT:** I don't think so.

19 (End of sidebar discussion.)

20 **THE COURT:** So the objection is sustained.

21 Ask your next question, please.

22 **BY MR. TRIPI:**

23 Q. Special Agent Ryan, after Palmieri was served a subject
24 letter and after a series of proffer interviews that included
25 yourself, did you -- did you thereafter apply for and receive

10:16AM 1 a search warrant for Mr. Palmieri's residence?

10:17AM 2 A. Yes.

10:17AM 3 Q. Does, in your view, does he remain a subject or target of
10:17AM 4 investigation today?

10:17AM 5 A. Yes.

10:17AM 6 Q. In conjunction with DOJ OIG, was another former partner
10:17AM 7 of Mr. Bongiovanni's interviewed named Mike Hill?

10:17AM 8 A. Yes.

10:17AM 9 Q. Did he receive a subject letter from the U.S. Attorney's
10:17AM 10 Office upon his retirement from the DEA?

10:17AM 11 A. He did.

10:17AM 12 Q. Based upon the investigation, do you view him as a
10:17AM 13 subject or a target of the investigation --

10:17AM 14 A. Yes.

10:17AM 15 Q. -- today?

10:17AM 16 Was there another DEA special agent named Greg Yensan who
10:17AM 17 was served a subject letter who had worked with Bongiovanni
10:17AM 18 on parts of these cases?

10:17AM 19 A. Yes.

10:17AM 20 Q. Did he give a series of interviews?

10:17AM 21 **MR. MacKAY:** Objection, Judge. Can we approach again
10:17AM 22 on this?

10:17AM 23 **THE COURT:** Sure.

10:17AM 24 (Sidebar discussion held on the record.)

10:18AM 25 **MR. MacKAY:** So, Judge, again, this is sort of more

1 of the same thing where, I mean, the Palmieri connection to
2 Bongiovanni are arguably closer, they're partners. But Hill
3 doesn't, rarely, if I recall, come up in the testimony so far.
4 Yensan is sporadically there, he's a supervisor. So we're
5 getting -- it feels like we're getting a little far afield
6 from the original connection between the partners who worked
7 together at the time.

8 **THE COURT:** Yeah.

9 **MR. TRIPI:** No. Hill was -- Hill was on the -- it's
10 been a while, so --

11 **THE COURT:** Well, Hill, there was no objection to.
12 Talk to me about Yensan.

13 **MR. TRIPI:** Yensan is in the Wayne Anderson file, as
14 well. He signs one of the openings.

15 **THE COURT:** Oh, right.

16 **MR. TRIPI:** He initials that. He's also the name on
17 the draft GPS affidavit that never gets sent to the U.S.
18 Attorney's Office. He also is in the meeting with Mr. Lynch
19 where they're talking about GPS tracker warrants, even though
20 there's representations in the file, the supervisor, that they
21 had already submitted them. Mr. Lynch's testimony was clear,
22 we never got GPS tracker warrants.

23 And so Mr. Yensan -- and I think it's significant
24 that the three people he worked closely with are subjects of
25 or the targets of the investigation currently.

1 **MR. MacKAY:** But with Palmieri, I at least understand
2 it to be that there's some sort of credibility finding about
3 Palmieri that -- because there's these polygraphs and they
4 don't believe Palmieri.

5 But with Yensan, I don't know that we've ever had a
6 reason why he's not called. I believe --

7 **MR. TRIPI:** He's got a subject letter.

8 **MR. MacKAY:** He's got a subject letter --

9 **MR. TRIPI:** He's represented by Cheryl Meyers-Buth.

10 **MR. MacKAY:** But there's a number of witnesses
11 represented here.

12 **THE COURT:** Go ahead.

13 **MR. SINGER:** So, essentially, are we commenting on
14 the right to silence? Because if someone invokes the Fifth
15 Amendment privilege or right to counsel --

16 **MR. TRIPI:** No, he spoke. They lied. That's what
17 happened.

18 **THE COURT:** Hang on. Well, they lied, but that's
19 somebody's opinion that they lied. So I'm not so sure that
20 that's relevant.

21 **MR. TRIPI:** But their status is what's relevant,
22 Judge. That's what I brought out. The status is relevant, a
23 former partner --

24 **THE COURT:** Why isn't the status relevant? Why isn't
25 the fact that there's a pending investigation relevant?

10:20AM 1 **MR. SINGER:** Can we talk about this real quick,
10:20AM 2 Judge?

10:20AM 3 **THE COURT:** Sure. Of course. Yeah.

10:21AM 4 **MR. MacKAY:** Judge, I think we're going to withdraw
10:21AM 5 the objection to Yensan as far as relevance, just keeping an
10:21AM 6 eye out of how far this is going to go.

10:22AM 7 **MR. TRIPI:** I'm done.

10:22AM 8 **THE COURT:** I don't think it's going to go any
10:22AM 9 further.

10:22AM 10 (Sidebar discussion concluded.)

10:22AM 11 **THE COURT:** The objection is withdrawn; is that
10:22AM 12 right?

10:22AM 13 **MR. MacKAY:** It is, Your Honor.

10:22AM 14 **MR. TRIPI:** Judge, I'm just not sure to the last
10:22AM 15 question, and I'm moving on after this, if I got an answer to
10:22AM 16 that.

10:22AM 17 Can -- Ms. Sawyer, can you just read the last
10:22AM 18 question, and if I got an answer?

10:22AM 19 (The above-requested question was then read by the
10:22AM 20 reporter.)

10:22AM 21 **BY MR. TRIPI:**

10:22AM 22 Q. I guess the last question then would be: Does his status
10:22AM 23 remain as a subject of the investigation?

10:22AM 24 A. Mr. Yensan?

10:22AM 25 Q. Yes.

1 A. Yes.

2 **MR. TRIPI:** Okay. Moving on, Your Honor. I'm going
3 to hand up Government Exhibit 209 which is in evidence.

4 **BY MR. TRIPI:**

5 Q. Special Agent Ryan, do you recall the circumstances under
6 which that item of evidence came into possession of his?

7 A. Yes.

8 Q. Can you describe the circumstances under which that came
9 into the possession of you and Special Agent Halliday in this
10 investigation?

11 A. We were meeting with Lou Selva, and he gave this to us.

12 Q. And can you read what the front of the paper bag says?

13 A. It says happy birthday, Brother. 55, no jive. Love ya,
14 Bonj.

15 Q. And where did Mr. Selva turn that over to you?

16 A. At the U.S. Attorney's Office.

17 Q. And what was his demeanor when delivering that to you?

18 A. He was a little bit nervous about it.

19 Q. During the interviews with Mr. Selva that you were in,
20 was that nervousness common?

21 A. Yes, throughout.

22 Q. Did he appear scared at times?

23 A. Yes, he told me he was.

24 Q. Okay. Now, we've referenced that box a couple of times.

25 And the Government Exhibit 100A.1 is the CD that's in

1 evidence regarding the scanned items that were in that file;
2 is that correct?

3 A. Yes.

4 **MR. TRIPI:** Okay. Ms. Champoux, can we pull up
5 Government Exhibit 100A.1, which is in evidence.

6 **BY MR. TRIPI:**

7 Q. Now I'd like to work through some of the documents with
8 you, Special Agent Ryan, okay?

9 A. Okay.

10 **MR. TRIPI:** Ms. Champoux, can we open -- withdrawn
11 for a moment.

12 **BY MR. TRIPI:**

13 Q. Now, you and Special Agent Halliday worked together to
14 scan the documents and create the CD, correct?

15 A. Correct.

16 Q. The things that each pdf has labeled, were those labels
17 that you and Special Agent Halliday assigned them?

18 A. Yes, they were assigned by us as we made the scans.

19 Q. Okay. And that was based upon reviewing the document and
20 scanning it?

21 A. Right. Trying to come up with a name that would help us
22 come back to it when we needed to.

23 Q. Okay. As it was in the file, it was just a whole bunch
24 of papers, correct?

25 A. Correct.

1 Q. Okay. So, this was some attempt to organize the
2 documents, but it was your attempt, not the way the file was
3 organized; is that fair?

4 A. Yes.

5 **MR. TRIPI:** Okay. Can we click on this first pdf
6 labeled 4/19/13, subscriber list. And can we rotate it so
7 that it reads. Thank you. Can we scroll to the top.

8 **BY MR. TRIPI:**

9 Q. Okay. Now, Special Agent Ryan, before I get into this
10 document, you worked at DEA, correct?

11 A. Yes.

12 Q. And you're familiar with deconfliction, and deconfliction
13 of phone numbers?

14 A. Yes.

15 Q. In the context of DEA, how are intel analysts utilized
16 when subpoenaing phone numbers from DARTS at the DEA?

17 A. Often they did all of the DARTS entries, they would
18 receive the DARTS returns, then they would analyze the
19 returns with PLX.

20 Q. And so the DARTS, that's the system for issuing the
21 subpoenas?

22 A. It issues the subpoenas, and then it also checks the
23 numbers that you're issuing the subpoenas for against
24 previous subpoenas to see if anyone else has subpoenaed the
25 same number.

10:27AM 1 Q. Is it common -- is it common for agents and task force
10:27AM 2 officers to use the intel analysts to do the DARTS phone
10:27AM 3 number subpoenas?

10:27AM 4 A. Yes.

10:27AM 5 Q. And do the analysts also get the responses and conduct
10:27AM 6 analysis for the agents?

10:27AM 7 A. Yes.

10:27AM 8 Q. Sometimes did they do that analysis without being asked,
10:27AM 9 they get the return and they start generating lists?

10:27AM 10 A. Yes.

10:27AM 11 Q. What are the different types of lists that the intel
10:27AM 12 analysts create typically from DARTS subpoena returns, phone
10:27AM 13 number returns?

10:27AM 14 A. One is the hot sheet.

10:27AM 15 Q. What is a hot sheet?

10:27AM 16 A. It's a nickname for -- it's called the most dialed number
10:28AM 17 report. So it goes -- it's analyzing 60 days of toll data.
10:28AM 18 It will tell you the most dialed number, and then how many
10:28AM 19 times it was called, the date range of the calls. And then
10:28AM 20 it goes from the most dialed to the least dialed with that
10:28AM 21 information.

10:28AM 22 Q. Other lists that they can create, do those include
10:28AM 23 subscriber lists?

10:28AM 24 A. Yes.

10:28AM 25 Q. And is that identifying subscribers of various phones --

1 phone numbers that are subpoenaed?

2 A. Yes.

3 Q. Do they also create common call lists?

4 A. Yes.

5 Q. And would that be taking two numbers that are -- that are

6 known, and seeing who those two numbers call that are the

7 same or common?

8 A. Yes, that's exactly what it is.

9 Q. And are all those things, all those -- withdrawn.

10 Things, it's a bad word. Are all of those lists, are all of

11 those items, that type of work product, is that law

12 enforcement sensitive information?

13 A. Yes.

14 Q. Is that information, is that the type of information you

15 intend to bring home when you retire from his?

16 A. No.

17 Q. Okay. So now looking at the pdf labeled 4/19/13

18 subscriber list --

19 **MR. TRIPI:** Can we open that back up, please.

20 **BY MR. TRIPI:**

21 Q. Can you just orient the jury to what this is?

22 A. So this is subscriber list. And I'm not sure how the

23 analyst runs it, but it would be -- it includes all the

24 identified subscribers for that batch of data in PLX.

25 **MR. TRIPI:** Ms. Champoux, can we just scroll down and

1 show the jury how many pages there are?

2 **BY MR. TRIPI:**

3 Q. And at times, do you see handwriting on there?

4 A. Yes.

5 **MR. TRIPI:** Scroll up to the top. Let's X out of

6 that. We'll go to the next document. The next one that I

7 want to open up is labeled 467 Tacoma ELEC sub. Ms. Champoux,

8 can you scroll so Special Agent Ryan can see the whole page?

9 Okay. That's good enough. Can we make it a little larger,

10 maybe one larger? Thank you.

11 **BY MR. TRIPI:**

12 Q. Now looking at the first page of this pdf, page 1 of that

13 pdf, can you tell the jury what they're looking at?

14 A. Yes. It's a DEA administrative subpoena.

15 Q. And an administrative subpoena to what company?

16 A. National Grid.

17 Q. And what is National Grid?

18 A. An electric supplier in Western New York.

19 Q. I'm sorry, what is it?

20 A. It's an electric utility in Western New York.

21 Q. And who does it say in the greeting line the subpoena was

22 authorized by or issued by?

23 A. Special Agent Bongiovanni.

24 Q. And does it request information associated with several

25 addresses?

1 A. Yes, two. 467 Tacoma Avenue in Buffalo, and 469 Tacoma
2 Avenue in Buffalo.

3 Q. And near the bottom of the page, there's a sentence that
4 says please direct questions concerning the subpoena and/or
5 response to IA Steven P. Bevilacqua with a phone number; do
6 you see that?

7 A. Yes, I do.

8 Q. What does IA mean?

9 A. Investigative analyst.

10 Q. Is that what we've been talking about, the people who
11 help with DARTS and who help the agent and task force
12 officers with their subpoenas?

13 A. Yes.

14 Q. And do you know who Steven Bevilacqua is?

15 A. I do.

16 Q. Who is that?

17 A. He was an analyst who worked at the DEA office when I was
18 there.

19 Q. Okay. So someone who helps agents and task force
20 officers?

21 A. Yes.

22 Q. Is this type of administrative subpoena law enforcement
23 sensitive and relative to an investigation?

24 A. Yes.

25 Q. Is it the type of document you plan to bring home when

10:32AM 1 you retire?

10:32AM 2 A. No.

10:32AM 3 Q. Would you ever bring it home?

10:32AM 4 A. No.

10:32AM 5 **MR. TRIPI:** Let's scroll down to the next page of
10:32AM 6 this pdf. And keep going.

10:32AM 7 **BY MR. TRIPI:**

10:32AM 8 Q. Now we're on page 3. Are you familiar with what that is,
10:32AM 9 just generally?

10:32AM 10 A. It's a return from National Grid.

10:32AM 11 Q. So, this is a National Grid subpoena, then we saw a
10:32AM 12 Google image, and then the third page is the subpoena
10:32AM 13 response?

10:32AM 14 A. Yes.

10:32AM 15 **MR. TRIPI:** Okay. Can we keep scrolling down,
10:32AM 16 Ms. Champoux?

10:32AM 17 **BY MR. TRIPI:**

10:32AM 18 Q. And do you recognize generally what page 4 is?

10:33AM 19 A. Yes, it's more of the same.

10:33AM 20 Q. More of the response --

10:33AM 21 A. Yes.

10:33AM 22 Q. -- from the company; is that correct?

10:33AM 23 A. Yes.

10:33AM 24 **MR. TRIPI:** Keep scrolling down, Ms. Champoux.
25

10:33AM

1

BY MR. TRIPI:

10:33AM

2

Q. Now we're at page 5 of this particular pdf. Is this more

10:33AM

3

of the response from the company?

10:33AM

4

A. Yes.

10:33AM

5

MR. TRIPI: Keep scrolling down, Ms. Champoux. We're

10:33AM

6

gonna keep scrolling. So page 6, page 7, 8, 9, 10, 11, 12,

10:33AM

7

13. Stop.

10:33AM

8

BY MR. TRIPI:

10:33AM

9

Q. So through page 13, were those all part of the subpoena

10:33AM

10

response --

10:33AM

11

A. Yes.

10:33AM

12

Q. -- from National Grid; is that right?

10:33AM

13

A. Yes.

10:33AM

14

Q. Now we get to page 14. Can you tell us what this is?

10:34AM

15

A. That's a Kenmore Police Department police report from

10:34AM

16

June 2nd, 2013.

10:34AM

17

MR. TRIPI: And can we scroll down to page 15.

10:34AM

18

BY MR. TRIPI:

10:34AM

19

Q. Is that the second page of the Kenmore Police Department

10:34AM

20

police report?

10:34AM

21

A. Yes.

10:34AM

22

MR. TRIPI: All right. Ms. Champoux, I'd like to go

10:34AM

23

to a different document. Can we go to the pdf labeled

10:34AM

24

56393JX. Should be the next one down.

25

10:34AM

1

BY MR. TRIPI:

10:34AM

2

Q. Can you tell the jury what this document is?

10:34AM

3

A. It's an NCIC NLETS return for --

10:34AM

4

Q. To who?

10:34AM

5

A. It's to David Leary.

10:34AM

6

Q. And what is NCIC NLETS?

10:35AM

7

A. So NCIC is the National Crime Information Center. And

10:35AM

8

then NLETS is the teletype system, or it was originally a

10:35AM

9

teletype system where you check driver's licenses, vehicle

10:35AM

10

registrations, the houses, that type of information.

10:35AM

11

Q. And does this appear to be associated with a Thomas

10:35AM

12

Serio?

10:35AM

13

A. Yes. It looks like vehicle registration query return for

10:35AM

14

Thomas Serio, or for a vehicle registered to Thomas Serio, I

10:35AM

15

should say.

10:35AM

16

Q. Is this a response from a law enforcement database?

10:35AM

17

A. Yes, it is.

10:35AM

18

Q. And this was located also in the defendant's house in his

10:35AM

19

basement, in that box in that file?

10:35AM

20

A. Yes.

10:35AM

21

MR. TRIPI: We can get out of that. Can we go to the

10:35AM

22

next document, it's labeled 39612013.

10:35AM

23

BY MR. TRIPI:

10:35AM

24

Q. And generally, can you tell the jury what this is?

10:35AM

25

A. Criminal history report.

1 Q. Are those things that are part of criminal investigation
2 generally?

3 A. Yes.

4 Q. Are criminal histories supposed to be handled with care?

5 A. Yes.

6 Q. And this one's an FBI criminal history check?

7 A. Well, they're all housed by the FBI, Criminal Justice
8 Information Services Division.

9 Q. And can you --

10 A. So this one --

11 **MR. TRIPI:** Can we scroll down a little bit. Let's
12 go to page 2.

13 **BY MR. TRIPI:**

14 Q. And whose criminal history is this?

15 A. Damien Abbate.

16 Q. Are criminal histories of individuals things you plan to
17 take home when you retire?

18 A. No.

19 Q. Is this a law enforcement sensitive document?

20 A. Yes.

21 **MR. TRIPI:** You can zoom out of that.

22 I'd like to go to 561801221 Serio T toll analysis.
23 Okay.

24 **BY MR. TRIPI:**

25 Q. Generally, Special Agent Ryan, can you tell the jury what

10:37AM 1 this is?

10:37AM 2 A. This is a hot number list for telephone number

10:37AM 3 561-801-0221.

10:37AM 4 Q. And do you see some handwriting next to that phone

10:37AM 5 number?

10:37AM 6 A. Yes.

10:37AM 7 Q. What's the name that there's handwriting on?

10:37AM 8 A. Thomas Serio. And then there's several addresses.

10:37AM 9 Q. And in the upper right-hand corner, do you see a nickname

10:37AM 10 associated with the defendant written there?

10:37AM 11 A. Yes.

10:37AM 12 Q. What do you see?

10:37AM 13 A. Bongo.

10:37AM 14 Q. Is this -- is this, in your experience, consistent with

10:37AM 15 an analyst running a hot number list for an agent?

10:37AM 16 A. Yes.

10:38AM 17 Q. And then labelling who the work was for?

10:38AM 18 A. Yes.

10:38AM 19 Q. Do you see some highlighting and handwriting on entry

10:38AM 20 number 15 there?

10:38AM 21 A. Yes, I do.

10:38AM 22 Q. Can you read that telephone number and then the

10:38AM 23 handwritten information?

10:38AM 24 A. The -- can we zoom in on it just a little bit?

10:38AM 25 Q. We can do row 15, or that's fine?

1 A. That's fine. Like that. So the telephone number is

2 716-481-8002. And then the system listed as no subscriber,

3 but someone has handwritten in the name John Robinson.

4 Q. And is there an address written next to John Robinson's

5 name?

6 A. 248 Euclid Ave.

7 Q. And going to the far end, is there a date range?

8 A. Yes. The highlighted line is October 24th, 2012 to

9 November 16th, 2012.

10 Q. And in your experience, is that the date range associated

11 with the phone records?

12 A. It's the date range for the 88 calls that are listed in

13 the second column from the left.

14 Q. Using your finger, can you circle -- can you show the

15 jury where you're referencing 88 calls?

16 A. Yes.

17 **MR. TRIPI:** May the record reflect that the witness

18 did so, indicated where the 88 calls are coming from.

19 **BY MR. TRIPI:**

20 Q. So does that indicate there's 88 calls, if we're using

21 the handwritten name John Robinson, during that time period

22 with the number highlighted in pink above for Thomas Serio?

23 A. Yes.

24 **MR. TRIPI:** And if you scroll through, Ms. Champoux,

25 can we scroll down to the next page?

10:39AM

1 **BY MR. TRIPI:**

10:39AM

2 Q. Do you see a lot of no subscribers on this hot list?

10:39AM

3 A. Yes.

10:39AM

4 Q. In your experience, are no subscriber phones generally

10:39AM

5 indicative of prepaid or burner phones?

10:39AM

6 A. It could be that, or it could be just another round of

10:39AM

7 subpoenas needs to be done for those phone numbers to try to

10:40AM

8 identify those subscribers.

10:40AM

9 **MR. TRIPI:** Okay. Keep scrolling down. Keep

10:40AM

10 scrolling down. Keep scrolling down. In terms of the

10:40AM

11 subscriber, we see a whole bunch of no subscribers listed,

10:40AM

12 correct?

10:40AM

13 A. Yes.

10:40AM

14 **MR. TRIPI:** Keep going. May the record reflect,

10:40AM

15 Judge, this is a nine-page pdf, and we're scrolling through

10:40AM

16 all the of the pages. Okay? And go back to the first page of

10:40AM

17 this, Ms. Champoux.

10:40AM

18 And does this have a run date at the top?

10:40AM

19 The very top, Ms. Champoux.

10:40AM

20 **BY MR. TRIPI:**

10:40AM

21 Q. Run date?

10:40AM

22 A. Yes, November 30th, 2012.

10:41AM

23 Q. And what is a run date?

10:41AM

24 A. It's the date the report was generated.

10:41AM

25 Q. And next to there, there's a run time?

10:41AM 1 A. Yes.

10:41AM 2 Q. So it appears as of November 30th, 2012, based upon the
10:41AM 3 phone number and the frequency, there was an association
10:41AM 4 between Thomas Serio and John Robinson; is that how you read
10:41AM 5 this?

10:41AM 6 A. Yes.

10:41AM 7 Q. Is it your understanding that John Robinson was never
10:41AM 8 interviewed until you interviewed him during the COVID
10:41AM 9 pandemic many years later?

10:41AM 10 A. Yes.

10:41AM 11 **MR. TRIPI:** Can we zoom out of this and go to the
10:41AM 12 next pdf which should say 716-481-8002. Toll analysis.

10:42AM 13 **BY MR. TRIPI:**

10:42AM 14 Q. And, so, if we relate this back to the pdf we just looked
10:42AM 15 at, this was the highlighted number that was associated with
10:42AM 16 John Robinson; is that right?

10:42AM 17 A. Yes.

10:42AM 18 Q. And generally, what is this document?

10:42AM 19 A. Numerical listing. So this is all the numbers called for
10:42AM 20 the time frame of the records.

10:42AM 21 Q. For that 716 --

10:42AM 22 A. For that number.

10:42AM 23 Q. Okay. And do you see the name about midway down for
10:42AM 24 Thomas Serio on that list?

10:42AM 25 A. Yes.

10:42AM 1 **MR. TRIPI:** Can we go to the next page, page 2 of
10:42AM 2 this and rotate it.

10:42AM 3 **BY MR. TRIPI:**

10:42AM 4 Q. Do you see the name Mark Falzone on page 2.

10:42AM 5 A. Yes, it's the third line down.

10:42AM 6 Q. Do you see the name Thomas Sibick?

10:43AM 7 A. Yes.

10:43AM 8 Q. Do you see the name Charles Butera?

10:43AM 9 A. Yes.

10:43AM 10 Q. Do you see the name Ronald Serio?

10:43AM 11 A. Yes.

10:43AM 12 Q. Do you see the name Thomas Serio?

10:43AM 13 A. Yes.

10:43AM 14 Q. Do you see the name Core Tattoo Studio?

10:43AM 15 A. Yes.

10:43AM 16 Q. Do you see the name Adrian Fina?

10:43AM 17 A. Yes.

10:43AM 18 **MR. TRIPI:** Can we go to the next page.

10:43AM 19 **BY MR. TRIPI:**

10:43AM 20 Q. On page 3, do you see the name Michael Masecchia?

10:43AM 21 A. Yes.

10:43AM 22 Q. Do you see the name Michael Mazzara?

10:43AM 23 A. Yes, it's the next one under Masecchia.

10:43AM 24 Q. Do you see the name Chris Baker?

10:43AM 25 A. It's the next one down, yes.

10:43AM 1 Q. Do you see the name Paul Francoforte?

10:43AM 2 A. Yes.

10:43AM 3 Q. Is that Hot Dog?

10:43AM 4 A. Yes.

10:43AM 5 Q. Do you see the name Christopher Baker again, different

10:43AM 6 phone numbers than the other ones?

10:43AM 7 A. There are at least two Christopher Bakers.

10:44AM 8 Q. Down further on the page?

10:44AM 9 A. I see a third one towards the bottom.

10:44AM 10 Q. All different phone numbers, correct?

10:44AM 11 A. Yes, that's why it shows up more than one time.

10:44AM 12 Q. Do you see the name Michael Buttita?

10:44AM 13 A. Yes.

10:44AM 14 **MR. TRIPI:** Can we go to page 4.

10:44AM 15 **BY MR. TRIPI:**

10:44AM 16 Q. Do you see the name Mark Kagan?

10:44AM 17 A. Yes.

10:44AM 18 Q. Do you see a phone number there?

10:44AM 19 A. Yes.

10:44AM 20 Q. And do we have a run date of April 19th, 2013 for this?

10:44AM 21 A. Yes.

10:44AM 22 Q. The names that I've asked you about, do you know those to

10:44AM 23 be associates of Ron Serio?

10:44AM 24 A. Yes.

10:44AM 25 Q. Based upon this and through the analysis of

1 Mr. Robinson's phone, does it appear that as of April 19,
2 2013, many of Mr. Serio's associates in his drug organization
3 were readily identifiable?

4 A. Yes.

5 Q. In your review of DEA file C2-13-0026, did you see
6 interviews, DEA-6s of interviews with any of those people
7 that I've asked you about?

8 A. No.

9 Q. And who was the case agent on C2-13-0026?

10 A. The defendant.

11 **MR. TRIPI:** Okay. We can X out of that document.

12 **BY MR. TRIPI:**

13 Q. And before we move on, that document, that hot sheet
14 generated by intel analysts, is law enforcement sensitive DEA
15 property, correct?

16 A. Yes, it's a DEA record.

17 **MR. TRIPI:** Can we go to the next one labeled
18 716-830-3226 DARTS.

19 **BY MR. TRIPI:**

20 Q. Okay. I'd like to ask you what this document is. Are
21 you familiar with what this document is?

22 A. Yes.

23 Q. What is this? Generally, I should say.

24 A. So, this is what it looks like when you're in DARTS,
25 which is a web-based system.

1 Q. Okay.

2 A. This is one of the screens that you would see.

3 Q. So, in order to get a paper copy of a DARTS hit when
4 you're a DEA task force officer or a special agent, what
5 steps need to be taken for an individual to create a paper
6 copy of a DARTS entry, a DARTS record like this?

7 A. To make this, you would have to be logged into DARTS.
8 And then into this -- he's in -- whoever did this is in
9 C2-13-0026. It looks like this might have been part of
10 entering a subpoena because of the language that appears
11 underneath there.

12 Q. Does this require someone to intentionally print it?

13 A. Yes. This is not, I mean, you could print this, but you
14 don't need to print this to make the system work.

15 Q. And do DARTS hits come to agents and task force officers
16 by email?

17 A. Yes.

18 Q. So I've just asked you about C2-13-0026; is that
19 right?

20 A. Yes.

21 Q. And there are comments under there; is that correct?

22 A. Yes.

23 Q. And in your experience, are the comments usually put in
24 there by the person who ran the DARTS, an intel analyst?

25 A. Yep. These comments look like whoever put this in is

1 entering an updated subpoena, or entering a subpoena for
2 telephone number 716-830-3226.

3 Q. Is that work typically done by an intel analyst?

4 A. Yes.

5 Q. Can you read what was written there, number part of?

6 Please read that for the jury.

7 A. Number part of ongoing narcotics investigation in contact
8 with target number 716-830-3226 per S.A. Bongiovanni.

9 Q. And below, there's a handwritten name under the

10 highlighted phone number. What's that name?

11 A. Ron Serio.

12 Q. And now orient the jury to how this DARTS hit is read.

13 A. So, whatever number this is about that is in contact with
14 716-830-3226 has been subpoenaed before. And it's been in
15 the results of subpoenas that were issued before. And that's
16 what these subsequent entries are.

17 Q. So, let's use the first -- the first one as an example.

18 Explain that for the jury, the first row.

19 A. So the -- there are three different DEA case numbers
20 there. I'm not sure what those codes mean, but those first
21 two characters in the code identify the office. So three
22 different offices are involved. And there was a request by
23 Heather Hodge in case GC-12-0189. And she entered the
24 comments in that request that the numbers in contact with
25 Kerem Dayi, head of a large scale marijuana trafficking DTO.

1 Q. So, I'm going to ask you a more straight-forward
2 question. So the box that says M1 and then CA and then GC,
3 those are three different DEA case files --

4 A. Yes.

5 Q. -- from other parts of the country?

6 A. Yes.

7 Q. Okay. And then in the far left, is there a phone number
8 there, 312-314-9055?

9 A. Yes.

10 Q. And is that the phone number that was at issue in those
11 three other DEA cases?

12 A. Yes.

13 Q. And somewhere in the subpoena of that phone number, it
14 connected to that highlighted phone number for Ron Serio in
15 some way?

16 A. Well, the way this was done, the numbers that were
17 entered in DARTS, whoever entered this, they knew that those
18 numbers were in contact with Serio as they're entering this.

19 And then this report shows you that that number was also
20 involved in these other cases.

21 Q. So if you're conducting legitimate investigation of
22 Mr. Serio, this would be information that would allow you to
23 make contact with other agents around the country; is that --

24 **MR. MacKAY:** Object to the form.

25 **MR. TRIPI:** Judge, I'm trying to develop the

1 testimony and explain the record. There was nothing
2 accusatory in my question.

3 **THE COURT:** Yeah, no, I think that's right.
4 Overruled.

5 **BY MR. TRIPI:**

6 Q. So if you're a task force officer conducting legitimate
7 investigation of Mr. Serio, you could use this information to
8 contact Heather Hodge and find out about other cases --

9 A. Yes.

10 Q. -- that link somehow to Serio?

11 A. Potentially, yes.

12 Q. Is that information that you should take home?

13 A. No.

14 **MR. TRIPI:** Let's scroll down.

15 **BY MR. TRIPI:**

16 Q. And does this DARTS hit for all of the different cases
17 generally, the example that you went through in the top, it
18 applies to all these other DARTS hits; is that fair to say?

19 A. Yes. So DARTS, you could enter up to 25 numbers at a
20 time. So for each number that hits, you would get another
21 block of information like this, for each number that's been
22 in there before.

23 Q. And so let's go back up to the top just real quick.

24 Where it says zero intercepts, zero subpoenas, zero pertinent
25 calls, does that provide relevant information?

10:52AM 1 A. Yes.

10:52AM 2 Q. Does that mean that Mr. Serio's phone number has not been
10:52AM 3 intercepted on any wiretaps?

10:52AM 4 A. I think it -- I think that relates to the 312 number.

10:52AM 5 Q. Okay. So the 312 number is not on any wiretap
10:52AM 6 intercepts?

10:52AM 7 A. Right.

10:52AM 8 Q. So there's no pertinent calls?

10:52AM 9 A. Right.

10:52AM 10 Q. And what does subpoenas zero mean?

10:52AM 11 A. That it has not been subpoenaed before.

10:52AM 12 Q. Okay. And, so, would you be able to infer that if that
10:52AM 13 phone number is not being intercepted, then Mr. Serio's
10:52AM 14 number would not have been on a wiretap associated with that
10:52AM 15 number?

10:52AM 16 A. Yes.

10:52AM 17 Q. Okay. Would that apply as we continue to go down the
10:52AM 18 DARTS list --

10:52AM 19 A. Yes.

10:52AM 20 Q. -- same concept?

10:52AM 21 **MR. TRIPI:** Scroll to the next number.

10:52AM 22 **BY MR. TRIPI:**

10:52AM 23 Q. So with respect to this number, you as a task force
10:53AM 24 officer looking at that, you can infer that Mr. Serio's
10:53AM 25 number is not being intercepted on any wire associated with

10:53AM 1 314-492-4906?

10:53AM 2 A. Yes. And that may include pen registers, too. But it

10:53AM 3 hasn't been intercepted by either of those.

10:53AM 4 Q. Pen register is usually a step that happens before

10:53AM 5 there's a wiretap, correct?

10:53AM 6 A. Right.

10:53AM 7 Q. Pen register is like a realtime phone record?

10:53AM 8 A. Pen registers and trap and trace are just phone tolls in

10:53AM 9 real time.

10:53AM 10 Q. Okay. Phone records in real time, in layman's words?

10:53AM 11 A. Yes, specific to dialed or received telephone calls.

10:53AM 12 Q. Okay. Let's go down to the next one. So now we have

10:53AM 13 another number we're on page 2 of this pdf, 412-768-0664. We

10:54AM 14 have again zero intercepts, zero pertinent calls; is that

10:54AM 15 correct?

10:54AM 16 A. Correct.

10:54AM 17 Q. So does that tell you that 412-768-0662 is not being

10:54AM 18 intercepted on a wiretap or a pen register?

10:54AM 19 A. Yes.

10:54AM 20 Q. Therefore, as a trained investigator, you can infer that

10:54AM 21 that Serio phone number at the top is also not being

10:54AM 22 intercepted as being in contact with that phone?

10:54AM 23 A. Correct.

10:54AM 24 **MR. TRIPI:** Okay. Let's go down to the next one,

10:54AM 25 Ms. Champoux.

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BY MR. TRIPI:

Q. Next we have 1-585-442-9450. That looks to be a Rochester phone number, correct?

A. Yes.

Q. And C2, these are Buffalo -- that's the DEA Buffalo office, correct?

A. That's correct.

Q. As a trained TFO and narcotics investigator, does this tell you that this 585 number is not being intercepted on a pen register and, therefore, Mr. Serio's phone would not be on any pen registers or wiretaps associated with that 585 number?

A. Correct.

Q. So, so far, this record tells you Mr. Serio's phone is all clear as it relates to these numbers in these DARTS hits?

A. Yes.

Q. Let's go down the next one, see that number 1-609-335-4452?

A. I do.

Q. Again zero intercepts, zero pertinent calls, correct?

A. Correct.

Q. Does that tell you that Mr. Serio's number as reflected at the top of the record is not on any pen registers or wiretaps associated with this 609 number?

A. Correct.

1 Q. Another 609 number appears below that. Same information,
2 correct?

3 A. Yes.

4 **MR. TRIPI:** Scroll down to the fourth page of this
5 document.

6 **BY MR. TRIPI:**

7 Q. Here we have a 702 number; is that correct?

8 A. Yes.

9 Q. And do you know 702 to be a Las Vegas based number?

10 A. Yes.

11 Q. And does this tell us that there are no pen registers or
12 wiretaps in which the Serio phone number was in contact with
13 this phone?

14 A. Correct.

15 Q. The next one down is 716 Buffalo area number, right?

16 A. I see it.

17 Q. 626-1900?

18 A. Yes.

19 Q. Does this information tell you that there are no pen
20 registers or wiretaps associated intercepting that 716 number
21 and the number related to Mr. Serio at the top of the page?

22 A. Correct.

23 **MR. TRIPI:** Scroll to the next one down.

24 **BY MR. TRIPI:**

25 Q. We have another 716, this one 716-715-2698; is that

1 correct?

2 A. Yes.

3 Q. And does this also tell you that there are no pen

4 register or wiretap intercepts involving that number and

5 Mr. Serio's phone number?

6 A. Yes.

7 Q. There's another 716 number below that; do you see that?

8 A. I do. All 9s.

9 Q. Again, does that information tell you there's no pen

10 register or wiretap intercepts between that number

11 Mr. Serio's phone?

12 A. Yes.

13 **MR. TRIPI:** Let's go down to the next one, please.

14 **BY MR. TRIPI:**

15 Q. We're at page 6 of the pdf, this one's an 818 number; is

16 that correct?

17 A. Yes.

18 Q. Same question. Does that information establish that

19 there are no pen register or wiretap intercepts between that

20 phone number that's in DARTS and Mr. Serio's phone number as

21 referenced at the top of the page?

22 A. Yes.

23 **MR. TRIPI:** Scroll to the bottom.

24 **BY MR. TRIPI:**

25 Q. And there's one more entry, is that correct, for 905

10:58AM 1 number?

10:58AM 2 A. Yes.

10:58AM 3 Q. And does that tell you that there are no intercepts or

10:58AM 4 calls relating to pen registers or wiretaps between that

10:58AM 5 DARTS number and the number identified for Mr. Serio at the

10:58AM 6 top of the document?

10:58AM 7 A. Yes. And then as I look at the remarks, it says this

10:58AM 8 number came from pen registers, or came from a pen register.

10:58AM 9 Q. So this number was on some other phone number's pen

10:58AM 10 register?

10:58AM 11 A. Yes. So intercepts are -- must be specific to Title III

10:58AM 12 for a wiretap.

10:58AM 13 **MR. TRIPI:** We can clear out of that document,

10:58AM 14 Ms. Champoux. I'd like to go to the next one down, that's the

10:58AM 15 830-8226 hot sheet.

10:59AM 16 **BY MR. TRIPI:**

10:59AM 17 Q. And you've explained to us what a hot number list is

10:59AM 18 before; is that right?

10:59AM 19 A. Yes.

10:59AM 20 Q. And does this list relate to the same phone number that

10:59AM 21 was on the prior DARTS that was associated with Mr. Serio?

10:59AM 22 A. Yes.

10:59AM 23 Q. And do you see around the third line, the fourth line

10:59AM 24 down, Christopher Baker?

10:59AM 25 A. Yes.

10:59AM 1 Q. Do you see Thomas Serio?

10:59AM 2 A. I do.

10:59AM 3 Q. Do you see Michael Buttita?

10:59AM 4 A. Yes, with a star next to it written in.

10:59AM 5 Q. Do you see Thomas Sibick?

10:59AM 6 A. Yes.

10:59AM 7 Q. Do you see another number for Christopher Baker?

10:59AM 8 A. Yes, at the bottom.

10:59AM 9 Q. And it's giving you the frequency of all those

10:59AM 10 communications, correct?

10:59AM 11 A. Yes.

10:59AM 12 Q. And that's a good starting point for an investigation,

10:59AM 13 right?

10:59AM 14 A. Yes.

10:59AM 15 Q. Someone who's in frequent contact with a target, you can

10:59AM 16 interview them, correct?

10:59AM 17 A. Yes, could.

10:59AM 18 Q. Let's go to the next page. At the top of page 2, do you

11:00AM 19 see a number for Michael Masecchia?

11:00AM 20 A. Yes.

11:00AM 21 Q. And that shows you 37 contacts with that Serio phone

11:00AM 22 number we've -- that's been identified in that one-month

11:00AM 23 period?

11:00AM 24 A. Yes.

11:00AM 25 Q. Further down we see Mark Kagan, 20 contacts during an

1 approximate 14-day period?

2 A. Yes.

3 Q. And then we see that 481-8002 number that previously a

4 document had John Robinson's name written next to it; is that

5 right?

6 A. Yes.

7 Q. So that's a number that was in contact with both Thomas

8 Serio and Ron Serio; is that right?

9 A. Yes.

10 Q. In your experience, would that be a good person to

11 interview in an investigation?

12 A. Yes.

13 Q. Right below that, do we see Hot Dog?

14 A. Yes, Paul Francoforte.

15 Q. Further down, do we see Mark Falzone?

16 A. Yes.

17 **MR. TRIPI:** Can we go to page 3 of this hot list?

18 **BY MR. TRIPI:**

19 Q. Do we see a Core Tattoo Studio?

20 A. Yes.

21 Q. Do you know Hardcore Tattoo Studio to be associated with

22 a Frank Burkhardt?

23 A. Yes.

24 **MR. TRIPI:** Can we go to page 4, please.

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BY MR. TRIPI:

Q. And the frequency is becoming less and less as you go down each page; is that correct?

A. Yes.

MR. TRIPI: And let's go to page 5. Okay. And we can X out of there. Right below that, can you open Amherst PD report T Serio.

BY MR. TRIPI:

Q. And what does this appear to be?

A. It's an Amherst Police Department report for a driving while intoxicated stop from 2/23/2015.

Q. And does it show various things that -- a description of charges further down the document relating to a Thomas Serio, Ron Serio's brother?

A. Yes.

Q. And do agents and task force officers have an ability to acquire local police reports when they work at DEA?

A. Yes.

Q. Like, for example, when you were there, if you needed to acquire an Amherst Police Department report, can you do it?

A. Yes.

Q. Now, are local police reports that are acquired or obtained during the course of a DEA case, are those law enforcement sensitive?

A. Yes.

1 Q. Do you plan to bring any local police reports home with
2 you when you retire?

3 A. No.

4 **MR. TRIPI:** Let's scroll through all these pages and
5 make sure there's not something else there. Stop there.
6 Let's scroll up a little bit.

7 **BY MR. TRIPI:**

8 Q. Now, there's some information, and then there's something
9 written, Steve, Joe, is this the guy you're interested in?

10 **MR. TRIPI:** Scroll further down.

11 **BY MR. TRIPI:**

12 Q. And do you know who Daniel Rinaldo is?

13 A. Yes.

14 Q. Who's that?

15 A. At this time, he was an intelligence officer for the
16 New York/New Jersey HIDTA.

17 Q. And does this indicate Dan Rinaldo endeavored to make
18 Mr. Bongiovanni aware of information regarding Thomas Serio?

19 A. Yes.

20 **MR. TRIPI:** Let's scroll down further.

21 **BY MR. TRIPI:**

22 Q. And we see what happens to be an email from
23 Mr. Bongiovanni to Mr. Flickinger?

24 A. It's -- looks like it was printed by a Mr. Bongiovanni
25 and it's from Mr. Flickinger.

11:04AM 1 Q. I'm sorry, I misspoke. So, at that time, Flickinger was
11:04AM 2 Bongiovanni's supervisor?

11:04AM 3 A. Yes, I think so.

11:04AM 4 Q. And you've worked with John Flickinger before for a
11:04AM 5 period of time?

11:04AM 6 A. I did.

11:04AM 7 Q. So does it look like his supervisors in this email are
11:04AM 8 trying to make Bongiovanni aware that Serio had a local
11:04AM 9 arrest?

11:04AM 10 A. Yes.

11:04AM 11 Q. And it says -- can you read what Flickinger apparently
11:04AM 12 wrote in this email to Mr. Bongiovanni?

11:04AM 13 A. Looks like Serio was arrested for DWI by Amherst.

11:05AM 14 Probably should contact them regarding pending charges.

11:05AM 15 Q. Now, after a target of an investigation is arrested by a
11:05AM 16 local police department, is that often a good time to try to
11:05AM 17 interview them when they have other charges pending?

11:05AM 18 A. You could try to interview them, contact the police
11:05AM 19 department, and see what evidence they found, if they found
11:05AM 20 any evidence beyond the controlled substances that were
11:05AM 21 listed above. Any statements that Mr. Serio made.

11:05AM 22 **MR. TRIPI:** So, if we go back up to the report that
11:05AM 23 was forwarded? Further up, please. Stop there. Scroll down
11:05AM 24 a little bit further. All right. Stop there.

25

25 | Q. Could this have been a basis to reopen that file, a drug

11:07AM 1 arrest involving Tom Serio?

11:07AM 2 A. Sure.

11:07AM 3 Q. In your experience, could information where someone has
11:07AM 4 drugs on them, on their person, or during a car stop, could
11:07AM 5 that information be included in a search warrant?

11:07AM 6 A. Yes.

11:07AM 7 Q. In your experience, do people involved in drug possession
11:07AM 8 and drug trafficking often keep evidence of their drug
11:07AM 9 trafficking in their homes and residences?

11:07AM 10 A. Yes.

11:07AM 11 Q. Is that because people keep things important to them
11:07AM 12 usually near them?

11:07AM 13 A. Yes.

11:07AM 14 Q. Is that some of the same type of information just
11:07AM 15 generally that you included in search warrant affidavits
11:08AM 16 regarding Anthony Gerace, Michael Masecchia, things like
11:08AM 17 that?

11:08AM 18 A. Yes.

11:08AM 19 **MR. TRIPI:** Okay. We can X out of that document.

11:08AM 20 And can we just open --

11:08AM 21 **BY MR. TRIPI:**

11:08AM 22 Q. I'm not going to open it up, but do you see Baker C
11:08AM 23 rap sheet, is that a criminal history associated with Chris
11:08AM 24 Baker?

11:08AM 25 A. Yes.

1 Q. Again, is that a document that should not leave DEA's
2 property and secure space?

3 A. Yes.

4 Q. See Baker C toll analysis?

5 **MR. TRIPI:** Can we open that one, Ms. Champoux?

6 **BY MR. TRIPI:**

7 Q. Now, before we get into this, I'm going to hand you up
8 Government Exhibit 100E-1 from that file in evidence. And
9 I'm going to ask you to read this for the jury.

10 **THE COURT:** When do you want to take a break?

11 **MR. TRIPI:** I was just going -- we could do it after
12 he reads this list, maybe, Judge. I'm about halfway through
13 the pdf, and then we're done. The list of pdfs that we see on
14 the screen.

15 **THE COURT:** Yep.

16 **THE WITNESS:** Names and numbers?

17 **BY MR. TRIPI:**

18 Q. Yes, please.

19 A. It's a list of names and numbers. The first one is --

20 Q. First off, hold it up for them so they can see it.

21 And on the back page, can you tell what's on the back
22 page?

23 A. I have looked at it when it's not in the bag, and it's
24 easier to see.

25 Q. Would you like to open the bag up?

11:09AM 1 A. No, I remember. It's a DEA duty roster.

11:09AM 2 Q. So does it look like --

11:09AM 3 A. Duty agent roster from February 2016. January and

11:10AM 4 February.

11:10AM 5 Q. So, the list of names are written on the back of a

11:10AM 6 different DEA document, you said duty roster, what is that?

11:10AM 7 A. It's the name and phone number and dates that -- for the

11:10AM 8 on-call agent for a period of time in January and February

11:10AM 9 and March of 2016.

11:10AM 10 Q. Okay. Now can you read the names and the phone numbers

11:10AM 11 on that list?

11:10AM 12 A. Yes. The first name is Mark Vitale, and the phone number

11:10AM 13 listed is 716-908-8559.

11:10AM 14 The next name is Tom Serio, 716-913-3652.

11:10AM 15 Then Ron Serio, 716-830-3226.

11:10AM 16 Mike Moynihan, 716-573-2174.

11:11AM 17 Mark Falzone, 716-208-5678.

11:11AM 18 Mike Buttita, 716-931-2974.

11:11AM 19 Chris Baker with three phone numbers, 716-818-6849,

11:11AM 20 716-907-5225, and then 716-830-3226.

11:11AM 21 And then the last name is Charles Butera is 716-400-2004.

11:11AM 22 Q. Does that appear to be a handwritten list of names that

11:11AM 23 was in the Redweld file that was in Bongiovanni's basement?

11:11AM 24 A. Yes. So it looks like it was handwritten with a Sharpie

11:11AM 25 marker or something similar.

11:11AM 1 **MR. TRIPI:** Okay. Judge, that might be a good spot
11:11AM 2 to take our bathroom break.

11:11AM 3 **THE COURT:** Okay. So we will take our morning break
11:11AM 4 now. Please remember my instructions about not taking about
11:12AM 5 the case with anyone, including each other, and not making up
11:12AM 6 your mind. We'll see you back here in about 15 minutes.

11:12AM 7 (Jury excused at 11:12 a.m.)

11:12AM 8 **THE COURT:** Okay. Anything we need to put on the
11:12AM 9 record?

11:12AM 10 **MR. TRIPI:** Not from the government.

11:12AM 11 **MR. SINGER:** No, Your Honor.

11:12AM 12 **THE COURT:** See you in a few minutes.

11:12AM 13 **MR. TRIPI:** Thank you.

11:12AM 14 **THE CLERK:** All rise.

11:12AM 15 (Off the record at 11:12 a.m.)

11:25AM 16 (Back on the record at 11:25 a.m.)

11:25AM 17 (Jury not present.)

11:25AM 18 **THE CLERK:** All rise.

11:25AM 19 **THE COURT:** Please be seated.

11:25AM 20 **THE CLERK:** We are back on the record for the
11:25AM 21 continuation of the jury trial in case number 19-cr-227,
11:25AM 22 United States of America versus Joseph Bongiovanni.

11:25AM 23 All counsel and parties are present.

11:25AM 24 **THE COURT:** Anything we need to put on the record?

11:25AM 25 **MR. TRIPI:** No, Your Honor.

11:25AM 1 **MR. MacKAY:** No, Your Honor.

11:25AM 2 **THE COURT:** Okay. Let's bring them back, please,
11:25AM 3 Pat.

11:27AM 4 (Jury seated at 11:27 a.m.)

11:27AM 5 **THE COURT:** The record will reflect that all our
11:27AM 6 jurors, again, are present.

11:27AM 7 I remind the witness he's still under oath.

11:27AM 8 And, Mr. Tripi, you may continue.

11:27AM 9 **MR. TRIPI:** Thank you, Your Honor.

11:27AM 10 Ms. Champoux, can you pull up where we left off?

11:27AM 11 Okay. The pdf, and the exhibit labeled Baker C toll analysis.

11:27AM 12 **BY MR. TRIPI:**

11:27AM 13 Q. Special Agent Ryan, can you orient the jury to the first
11:27AM 14 page of this document?

11:27AM 15 A. Yes. So, it says the subscriber information is for

11:27AM 16 Christopher Baker, case number C2-13-0026.

11:27AM 17 The other highlighted information is the C2-13-453516 was
11:28AM 18 the subpoena number, what the records are from.

11:28AM 19 And then telephone number 716-830-3226.

11:28AM 20 Q. And in the upper right-hand corner, did someone write the
11:28AM 21 name of the agent to whom these records were obtained for?

11:28AM 22 A. Yes, it says Bongiovanni.

11:28AM 23 Q. And is that C2-13-0026 case file, was that the Wayne
11:28AM 24 Anderson file title?

11:28AM 25 A. Yes.

1 Q. And in reviewing both the hard copy and the shared drive
2 file, were any of these records maintained in the file, that
3 C2-13-0026, that you were able to review after it was
4 provided by DEA during this investigation?

5 A. No.

6 Q. So the only place you've seen these hot lists and the
7 subscriber records are in the documents recovered from the
8 defendant's basement, correct?

9 A. Yes.

10 **MR. TRIPI:** Ms. Champoux, can we go to page 2 of this
11 pdf.

12 **BY MR. TRIPI:**

13 Q. And at line item number 3, we have another phone number
14 for Chris Baker?

15 A. Yes.

16 Q. And line item number 7, do we have a number for Tom
17 Serio?

18 A. Yes.

19 Q. Line item 17, do we have a number for Thomas Sibick?

20 A. Yes.

21 Q. Line item 22, do we have another phone number related to
22 Christopher Baker?

23 A. Yes.

24 **MR. TRIPI:** Let's go to the next page, Ms. Champoux.
25 And rotate it, please.

11:29AM

1

BY MR. TRIPI:

11:29AM

2

Q. Line item 34, do we have a number associated with Mark

11:29AM

3

Kagan?

11:29AM

4

A. Yes.

11:29AM

5

Q. Line item 42, do we have a number associated with Core

11:30AM

6

Tattoo Studio or Hardcore Tattoo Studio?

11:30AM

7

A. Yes.

11:30AM

8

MR. TRIPI: Can we go to page 4, please. And page 5.

11:30AM

9

And page 6. Okay. We can clear out of that.

11:30AM

10

Can you open up the pdf labeled Boinski J. Can you

11:30AM

11

scroll down, Ms. Champoux, to the related subjects section.

11:30AM

12

And can we go down to the -- I'm sorry, keep it there.

11:30AM

13

BY MR. TRIPI:

11:30AM

14

Q. We're on page 1 of this pdf. Under this related

11:30AM

15

subjects, do you see entry for person number 8?

11:31AM

16

A. Yes. Robert Mettal, or Mattal.

11:31AM

17

Q. And entry number 10?

11:31AM

18

A. Ronald Serio.

11:31AM

19

MR. TRIPI: Okay. Keep scrolling down, Ms. Champoux.

11:31AM

20

BY MR. TRIPI:

11:31AM

21

Q. And do we see record status information for this

11:31AM

22

document?

11:31AM

23

A. Yes.

11:31AM

24

Q. Is there a record origination date there?

11:31AM

25

A. 12/18/1997.

11:31AM 1 Q. And then is there a last update date for the information?

11:31AM 2 A. 5/23/2007.

11:31AM 3 Q. And at the bottom, is this a document based upon software

11:31AM 4 licensed by the New York State Office of the Attorney

11:31AM 5 General?

11:31AM 6 A. Yes.

11:31AM 7 Q. And do you see here, an initial and a last name that you

11:31AM 8 recognize?

11:31AM 9 A. Yes, P Talty.

11:31AM 10 Q. Who is P Talty?

11:32AM 11 A. Peter Talty.

11:32AM 12 Q. Is he -- who is he with? Is he with the State Attorney

11:32AM 13 General's Office?

11:32AM 14 A. He might be retired now --

11:32AM 15 Q. Previously?

11:32AM 16 A. -- but he was at that time.

11:32AM 17 Q. And do you see a date there of an acquisition -- or,

11:32AM 18 withdrawn, a date related to the document's production?

11:32AM 19 A. August 9th, 2011.

11:32AM 20 Q. So does it appear that based upon this document being

11:32AM 21 located in the defendant's basement, the defendant acquired

11:32AM 22 New York State Attorney General intelligence report that

11:32AM 23 listed Mr. Serio as a related subject and kept it in his

11:32AM 24 basement?

11:32AM 25 A. Yes.

11:32AM 1 **MR. TRIPI:** We can clear out of there.

11:32AM 2 **BY MR. TRIPI:**

11:32AM 3 Q. I won't ask you to open it, but do you see the label
11:32AM 4 entered Buttita M rap sheet?

11:32AM 5 A. Yes, I do.

11:33AM 6 Q. Is that another criminal history for Mike Buttita?

11:33AM 7 A. Yes.

11:33AM 8 Q. Is Mike Buttita another one of the names on Government
11:33AM 9 Exhibit 100E-1?

11:33AM 10 A. Yes.

11:33AM 11 Q. And I should have asked you this, is Chris Baker also one
11:33AM 12 of the names listed on that handwritten list?

11:33AM 13 A. Yes.

11:33AM 14 Q. Okay.

11:33AM 15 **MR. TRIPI:** Can we open up the pdf that says Cino K.

11:33AM 16 **BY MR. TRIPI:**

11:33AM 17 Q. And does it appear to be another Attorney General's
11:33AM 18 intelligence report.

11:33AM 19 A. Yes.

11:33AM 20 **MR. TRIPI:** Can you scroll down, Ms. Champoux.

11:33AM 21 **BY MR. TRIPI:**

11:33AM 22 Q. Do you see the related subjects list there?

11:33AM 23 A. Yes.

11:33AM 24 Q. Who are the names 2 and 3.

11:33AM 25 A. Robert Mettal and Ronald Serio.

11:33AM 1 **MR. TRIPI:** Scroll down, Ms. Champoux. And up a
11:33AM 2 little bit higher, I'm sorry, we need that last full box
11:33AM 3 there. Okay.

11:33AM 4 **BY MR. TRIPI:**

11:33AM 5 Q. Does have a record origination date of October 7th, 1998?

11:34AM 6 A. Yes.

11:34AM 7 Q. And a last updated date of May 23rd, 2007?

11:34AM 8 A. Yes.

11:34AM 9 Q. And when does it appear that Mr. Talty prepared this
11:34AM 10 report?

11:34AM 11 A. October 31st, 2012.

11:34AM 12 Q. So does it appear that the defendant acquired an
11:34AM 13 intelligence report that, again, listed Mr. Serio as a
11:34AM 14 related subject acquired and kept it in his basement?

11:34AM 15 A. Yes.

11:34AM 16 Q. And this investigation from the Attorney General's Office
11:34AM 17 dates back to origination date of 1998?

11:34AM 18 A. Yes.

11:34AM 19 **MR. TRIPI:** Okay. X out of there, Ms. Champoux.

11:34AM 20 Can we open the pdf label CKA 2804?

11:34AM 21 **BY MR. TRIPI:**

11:34AM 22 Q. At the very top, do we see who ran this response detail
11:34AM 23 record?

11:34AM 24 A. Yes.

11:34AM 25 Q. Who did?

1 A. Joseph Bongiovanni.

2 Q. And what is this type of record request?

3 A. Registration details for a vehicle.

4 Q. And who's the registration details associated with?

5 A. The registered owner is Krista Masecchia.

6 Q. Is that Mike Masecchia's wife?

7 A. Yes.

8 Q. Does it also have a listed address for her?

9 A. 125 Huntington Court, Williamsville.

10 Q. Do you know that to be a property that at the time was
11 owned by Ronald Serio?

12 A. Yes.

13 **MR. TRIPI:** Okay. We can clear out of there.

14 Can we open the pdf labeled common calls, and has
15 those two numbers listed? And rotate it.

16 **BY MR. TRIPI:**

17 Q. And so are the two target numbers 716-578-5296 on this
18 common call break down? And 716-830-8226?

19 A. Yes.

20 Q. Were those numbers in the other pdfs we've seen on Tom
21 Serio and Ronald Serio on the bottom?

22 A. Yes.

23 Q. So this document shows people that they were each in
24 phone contact with, or phone numbers at least, they were each
25 in phone contact with?

11:36AM 1 A. Yes.

11:36AM 2 Q. And when was this record run date?

11:36AM 3 A. March 20th, 2013.

11:36AM 4 Q. And in review of the file, did you see any pen registers
11:36AM 5 for either of these numbers?

11:36AM 6 A. No.

11:36AM 7 **MR. TRIPI:** All right. We can clear out of there.

11:36AM 8 Let's go to below that, there's a DARTS email, 1/7/2019.

11:36AM 9 **BY MR. TRIPI:**

11:36AM 10 Q. Now, 1/7/2019, is that about three weeks before

11:36AM 11 Mr. Bongiovanni retired?

11:36AM 12 A. Yes.

11:36AM 13 Q. And do DARTS deconfliction emails often come to agents by
11:37AM 14 email?

11:37AM 15 A. Yes.

11:37AM 16 Q. And do you see the from, so, at the very top it says

11:37AM 17 Bongiovanni, Joseph S, does that mean this was printed from
11:37AM 18 his email?

11:37AM 19 A. Yes.

11:37AM 20 Q. On the from line, who's this from?

11:37AM 21 A. Sean Hoerner.

11:37AM 22 Q. Do you know who Sean Hoerner was at the time?

11:37AM 23 A. He was an analyst at the office at the time. The DEA
11:37AM 24 office.

11:37AM 25 Q. Do you see who's on the to line?

11:37AM 1 A. Yes.

11:37AM 2 Q. Do you see the name Anthony Casullo?

11:37AM 3 A. I do.

11:37AM 4 Q. Do you see your name?

11:37AM 5 A. I do.

11:37AM 6 Q. By this point in time, were you investigating certain

11:37AM 7 people like Mike Sinatra?

11:37AM 8 A. Yes.

11:37AM 9 Q. Were you about three weeks out from doing a search

11:37AM 10 warrant that involved people like Mike Sinatra?

11:37AM 11 A. Yes.

11:37AM 12 Q. Do you see Mr. Bongiovanni on this DARTS deconfliction

11:37AM 13 email?

11:38AM 14 A. Yes.

11:38AM 15 **MR. TRIPI:** If we scroll down a little bit further.

11:38AM 16 **BY MR. TRIPI:**

11:38AM 17 Q. Do you see priority 3, date request, case number, request

11:38AM 18 ran by, and remarks?

11:38AM 19 A. Yes.

11:38AM 20 Q. Can you read that information for the jury?

11:38AM 21 A. So, it's dated 1/7/2019. Case number C2-17-0001.

11:38AM 22 Request ran by Anthony J. Casullo. And it's -- the remarks

11:38AM 23 are phone numbers in contact with Mike Sinatra related to a

11:38AM 24 burglary and drug trafficking in Buffalo and Niagara County.

11:38AM 25 Q. Now, at some point after this date, were you -- were you

1 made aware of information that ultimately caused you to
2 interview Town of Tonawanda Police Department Detective
3 Thomas Oswald --

4 A. Yes.

5 Q. -- without getting into what he said to you?

6 A. Yes.

7 Q. That was after this date, correct?

8 A. Yes.

9 Q. Can you read the bottom one, priority 2?

10 A. Yes. January 3rd, 2019 was the request date. Case
11 number, C2-17-0001. Requested by Anthony J. Casullo. And
12 the remarks are numbers related to ongoing investigation in
13 Tonawanda, New York and Buffalo, jointly with his Buffalo,
14 information provided by TTPD Detective Campanella.

15 Q. Was Detective Campanella the detective investigating
16 Michael Sinatra's burglary?

17 A. Yes.

18 **MR. TRIPI:** Can we scroll down further. Now let me
19 stop you there.

20 **BY MR. TRIPI:**

21 Q. Was Special Agent Bongiovanni in any way involved in your
22 investigation of Michael Sinatra or the burglary
23 investigation of Michael Sinatra's residence in the Town of
24 Tonawanda?

25 A. No.

1 Q. In order to have this piece of paper that is the DARTS
2 deconfliction email, would one have needed to print it, put
3 it in a file folder, and then bring it home with them? Are
4 those the steps that needed to happen before this was found
5 in the defendant's basement?

6 A. Yes.

7 **MR. TRIPI:** Scroll down, Ms. Champoux.

8 **BY MR. TRIPI:**

9 Q. So are there several phone numbers that associate to
10 Michael Sinatra as it relates to this DARTS deconfliction; is
11 that what you're seeing?

12 A. Yes.

13 Q. In summary form?

14 A. Yes. Phone numbers that associate to Mike Sinatra or
15 were in contact with Michael Sinatra.

16 Q. And that are listed in some other DEA subpoena?

17 A. Yes. If you go up, there's one that's from C2-13-26.
18 The number above this one, I think.

19 Q. So this phone number is from the Wayne Anderson file that
20 was also the Serio file --

21 A. Yes.

22 Q. -- as it became known?

23 And are there remarks from the initial DARTS entry for
24 that phone number?

25 A. Yes. Number part of ongoing narcotics investigation in

11:41AM 1 contact with target number 716-830-3226.

11:41AM 2 Q. And is that number, 830-3226, is that the number we had

11:41AM 3 seen for Ron Serio?

11:41AM 4 A. Yes.

11:41AM 5 Q. And who was that request ran by for Special Agent

11:41AM 6 Bongiovanni?

11:41AM 7 A. By Justin Borst.

11:41AM 8 Q. And who was that?

11:41AM 9 A. He was a National Guard analyst I think at the time --

11:41AM 10 Q. Assigned to the DEA?

11:41AM 11 A. -- in the DEA office.

11:42AM 12 Q. Assigned to DEA?

11:42AM 13 A. Yes.

11:42AM 14 **MR. TRIPI:** I'll clear those markings.

11:42AM 15 Ms. Champoux, can you continue to scroll down. Keep

11:42AM 16 scrolling.

11:42AM 17 **BY MR. TRIPI:**

11:42AM 18 Q. What does no DICE overlap mean?

11:42AM 19 A. DICE and DARTS talk to the same database. If you're

11:42AM 20 outside of DEA, you use DICE to interface with the data.

11:42AM 21 Q. Does his use DICE?

11:42AM 22 A. His, FBI, for sure use DICE.

11:42AM 23 Q. So if those numbers were in FBI or his systems that use

11:42AM 24 DICE, there would have been an additional notification?

11:42AM 25 A. It's the same system. It's a different interface to the

1 same system. So DICE is the outside of DEA interface that
2 puts the numbers in the same place. So no DICE users, nobody
3 who's using DICE had an overlap with those numbers.

4 Q. So, for example, no his agents and no FBI agents?

5 A. Right.

6 Q. As it relates to Special Agent Casullo, as the Michael
7 Sinatra piece of the investigation started to connect, did he
8 also get walled off from that part of it as well?

9 A. Yes.

10 Q. Did your investigation expand over time?

11 A. Yes.

12 Q. Did you know where you were gonna end up when you
13 started?

14 A. No.

15 **MR. TRIPI:** Keep scrolling down. I'll stop you
16 there.

17 **BY MR. TRIPI:**

18 Q. We're dealing with a phone number here, and some comments
19 that reference Mark Vitale; is that right?

20 A. Yes.

21 Q. And can you explain this entry for the jury?

22 A. Yes. So, 716-583-3349 was entered by Special Agent
23 Casullo on 12/15/2015 as part of case C2-15-0065. And on
24 that entry, the remark he made was frequently called numbers
25 of Buffalo-based cocaine and marijuana trafficker Mark

1 Vitale.

2 Q. And is Mark Vitale's name on the list you have in front
3 of you, Exhibit 100E-1.

4 A. Yes.

5 Q. Right below that, is there another entry that has remarks
6 relating to Anthony Gerace?

7 A. Yes. So this number was also in a list of numbers in
8 contact with, the way it's written here, oxycodone trafficker
9 Anthony Gerace.

10 Q. And those remarks were put in by Anthony Casullo, right?

11 A. Correct.

12 **MR. TRIPI:** Keep scrolling down. Okay. So we've
13 looked at all seven pages. Can we go back up to page 2 for a
14 moment, Ms. Champoux, page 2 of the pdf. So, let's keep it
15 there.

16 **BY MR. TRIPI:**

17 Q. To summarize, based on your experience and understanding
18 of the DARTS entries, is the reason that Bongiovanni received
19 a notification of the work that Casullo was doing on those
20 phone numbers related to Michael Sinatra because one of the
21 phone numbers had previously been in contact with that Ron
22 Serio phone?

23 A. Yes.

24 Q. And then going back up to the top, this is an email that
25 Bongiovanni printed and ended up in his basement, correct?

11:46AM 1 A. Yes.

11:46AM 2 **MR. TRIPI:** Okay. We can move on from this. X out
11:47AM 3 of there. Can you open the pdf that says draft tracker
11:47AM 4 warrant, and scroll down to the first line there.

11:47AM 5 **BY MR. TRIPI:**

11:47AM 6 Q. Do you see where it says Shane Nastoff?

11:47AM 7 A. Yes.

11:47AM 8 Q. Special Agent Nastoff was interviewed in the course of
11:47AM 9 this investigation; is that correct?

11:47AM 10 A. Yes.

11:47AM 11 Q. Did your -- did you find any completed GPS tracker
11:47AM 12 warrants in file C2-13-0026?

11:47AM 13 A. No.

11:47AM 14 **MR. TRIPI:** Okay. We can X out of there.

11:47AM 15 **BY MR. TRIPI:**

11:47AM 16 Q. Is a GPS tracker warrant, either a draft or a completed
11:47AM 17 warrant, something that you were gonna bring home at
11:47AM 18 retirement and put in your basement?

11:48AM 19 A. No.

11:48AM 20 Q. Is that law enforcement sensitive information?

11:48AM 21 A. Yes.

11:48AM 22 **MR. TRIPI:** Can you open the pdf that says financial
11:48AM 23 spreadsheet?

11:48AM 24 **BY MR. TRIPI:**

11:48AM 25 Q. Now, I'm not gonna go through the whole thing, but it's

1 158 pages. But through the investigation, are you familiar
2 with the fact that Scott Deming of the U.S. Attorney's Office
3 did financial investigation as it related to the Serio case?

4 A. Yes.

5 Q. Is financial analysis through subpoenas law enforcement
6 sensitive information?

7 A. Yes.

8 Q. Is that work that you intend to bring home when you go
9 into retirement?

10 A. No.

11 **MR. TRIPI:** We can clear out of there.

12 Can we open the document that says FTR 2117. Scroll
13 down.

14 **BY MR. TRIPI:**

15 Q. At the top, can you see who queried this database?

16 A. Yes, it says Joseph Bongiovanni.

17 **MR. TRIPI:** Can we go down a little bit.

18 **BY MR. TRIPI:**

19 Q. And could we see, tell the jury what -- what
20 Mr. Bongiovanni queried?

21 A. So it's the vehicle registration data for Chevy pickup
22 truck.

23 Q. Do you see who it's registered to?

24 A. Yes, registered to Louis Selva.

25 **MR. TRIPI:** Okay. We can clear out of there. Can we

1 open up FGY 1790. Yeah, that one.

2 **BY MR. TRIPI:**

3 Q. And can we -- can you tell us at the top who queried this
4 database?

5 A. Joseph Bongiovanni.

6 **MR. TRIPI:** And can we scroll down just a little bit
7 to the highlighting, up a little bit?

8 **BY MR. TRIPI:**

9 Q. Whose vehicle was he inquiring about?

10 A. Thomas Serio.

11 **MR. TRIPI:** Okay. Can we clear out of that, and next
12 open a pdf labeled handwritten notes.

13 **BY MR. TRIPI:**

14 Q. Do you see some handwritten notes there?

15 A. Yes.

16 Q. Do you know whose notes these are?

17 A. They were from the file, but --

18 Q. So no?

19 A. No.

20 Q. Don't know whose writing it is?

21 A. No, I don't know who wrote it.

22 Q. Do you see some notations next to a name Ron Serio?

23 A. Yes.

24 Q. What does it say there?

25 A. At the top, it says Ron Serio, and then a dash, and then

1 it says weed plus NYC coke.

2 Q. Do you understand that to be New York City coke?

3 A. New York City cocaine, most likely.

4 Q. And do you see a parenthetical for a name David Oddo?

5 A. Yes.

6 Q. Is there a similar name on the front of the file that was

7 in the defendant's basement?

8 A. Yes. Just, it's spelled with Ds on the notes and Ts on

9 the outside of the file, but it's the same name.

10 Q. Do you see a reference to a Gables?

11 A. Yes.

12 Q. Do you understand that there was a bar called Gables on

13 Hertel Avenue in North Buffalo?

14 A. Yes.

15 **MR. TRIPI:** Can we scroll down a little further on

16 these notes? Keep scrolling, please. Okay. We can actually

17 clear out of this document now. And there's an IMG 0491.

18 **BY MR. TRIPI:**

19 Q. Is that the handwritten list that is in evidence that was

20 in that folder?

21 A. Yes.

22 **MR. TRIPI:** We can clear out of there. Ms. Champoux,

23 can you scroll down a little bit? There's one that says

24 Masecchia M phone info.

25

11:52AM

1

BY MR. TRIPI:

11:52AM

2

Q. Describe for the jury what they're looking at here.

11:52AM

3

A. Subscriber information for phone number 716-812-0664,

11:52AM

4

then -- it's for Michael Masecchia.

11:52AM

5

Q. And is that C2-13-0026, is that the file title Wayne

11:53AM

6

Anderson file?

11:53AM

7

A. Yes.

11:53AM

8

Q. And is the phone number 716-812-0664?

11:53AM

9

A. Yes.

11:53AM

10

Q. And does it have two addresses associated with

11:53AM

11

Mr. Masecchia?

11:53AM

12

A. Yes. 407 Colvin Avenue, and 1195 Hertel Avenue.

11:53AM

13

Q. And is there a notation in the upper right-hand corner of

11:53AM

14

the document from an intel analyst as to which agent these

11:53AM

15

records relate to?

11:53AM

16

A. Yes, it says Bongo.

11:53AM

17

Q. And is that something that the defendant was called

11:53AM

18

around the DEA office?

11:53AM

19

A. Yes.

11:53AM

20

MR. TRIPI: Can we scroll to the next page, please.

11:53AM

21

Can we make this a little larger. Okay.

11:53AM

22

BY MR. TRIPI:

11:53AM

23

Q. Can you tell the jury what this is?

11:53AM

24

A. It's a screen print of DARTS entry.

11:54AM

25

Q. Does this indicate that the subscriber subpoena record

11:54AM 1 information for Mike Masecchia was put into DARTS?

11:54AM 2 A. Yes.

11:54AM 3 Q. Once it's in DARTS, it's set up for deconfliction

11:54AM 4 notifications?

11:54AM 5 A. Correct.

11:54AM 6 **MR. TRIPI:** Can we go to the next page. And can

11:54AM 7 we --

11:54AM 8 **BY MR. TRIPI:**

11:54AM 9 Q. And now is this is the hot number list for that Masecchia

11:54AM 10 phone number; is that right?

11:54AM 11 A. Yes.

11:54AM 12 Q. And 1 through 22, the dialed name is a bunch of no

11:54AM 13 subscribers, correct?

11:54AM 14 A. Correct.

11:54AM 15 Q. And so either -- I think based on what you explained

11:54AM 16 earlier, either that means it's a prepaid phone with no

11:54AM 17 subscriber, or more subpoenas would need to be issued for

11:55AM 18 find out who those subscribers are; is that right?

11:55AM 19 A. That's correct.

11:55AM 20 Q. So those are the two options?

11:55AM 21 A. Yes.

11:55AM 22 Q. Let's go to the next page.

11:55AM 23 But item number 23 does have a dialed name; is that

11:55AM 24 right?

11:55AM 25 A. Yes.

11:55AM 1 Q. Who's the dialed name?

11:55AM 2 A. Thomas Serio.

11:55AM 3 Q. And you have a date range there?

11:55AM 4 A. Yes. March 20, 2013 to April 5th, 2013.

11:55AM 5 Q. And is Tom Serio, is that phone number on the handwritten

11:55AM 6 list that you have in front of you there? Or is a different

11:55AM 7 number listed?

11:55AM 8 A. It's a different number.

11:55AM 9 Q. Okay. Let's go to 32. Is there a name Chris Baker?

11:55AM 10 A. Yes.

11:55AM 11 Q. What's that phone number?

11:55AM 12 A. 716-830-3226.

11:55AM 13 Q. Is Baker listed on Government Exhibit 100E-1 in front of

11:55AM 14 you which you just also referenced a moment ago?

11:56AM 15 A. Yes.

11:56AM 16 Q. Is that phone number referenced there?

11:56AM 17 A. Yes.

11:56AM 18 Q. For 24 through 31 though, we have no subscriber listed,

11:56AM 19 right?

11:56AM 20 A. Yes.

11:56AM 21 **MR. TRIPI:** Go to the next page.

11:56AM 22 **BY MR. TRIPI:**

11:56AM 23 Q. I'm sorry 33 through 50, no subscribers.

11:56AM 24 A. Correct.

11:56AM 25 **MR. TRIPI:** Let's go to the next page.

11:56AM

1

BY MR. TRIPI:

11:56AM

2

Q. 51 through 60, no subscribers?

11:56AM

3

A. Correct.

11:56AM

4

Q. 61 is -- who's that?

11:56AM

5

A. Michael Mazzara.

11:56AM

6

Q. Do you know Mr. Masecchia's wife's maiden name?

11:56AM

7

A. Mazzara.

11:56AM

8

Q. 62 through 78, no subscribers?

11:56AM

9

A. Correct.

11:56AM

10

Q. 78 through 96, no subscribers?

11:56AM

11

A. Correct.

11:56AM

12

MR. TRIPI: We can clear out of there.

11:57AM

13

Can we go to the pdf labeled Mettal docs.

11:57AM

14

BY MR. TRIPI:

11:57AM

15

Q. Is this more subscriber information done for Bongo in

11:57AM

16

file C2-13-0026?

11:57AM

17

A. Yes, for phone number 516-398-7192.

11:57AM

18

Q. So this is another document that was located in his

11:57AM

19

basement in that file, correct?

11:57AM

20

A. Yes.

11:57AM

21

MR. TRIPI: Clear out of there. Can we go to

11:57AM

22

Moynihan E-L-E-C sub. Can you spin that around.

11:57AM

23

BY MR. TRIPI:

11:57AM

24

Q. And can you tell the jury what they're looking at here?

11:57AM

25

A. It's the National Grid return for Michael Moynihan.

1 Q. And so it's a subpoena response?

2 A. A subpoena response, yes.

3 Q. Is that information that's supposed to remain in the DEA
4 secure space?

5 A. Yes.

6 Q. And it was located in the defendant's basement?

7 A. Yes.

8 Q. Is Michael Moynihan an associate of Ron Serio's?

9 A. Yes.

10 **MR. TRIPI:** Can we go to the second page of this
11 document?

12 **BY MR. TRIPI:**

13 Q. More information from the subpoena?

14 A. Yes.

15 **MR. TRIPI:** Okay. We can clear out of there. Can we
16 open the pdf that says Moynihan phone info.

17 **BY MR. TRIPI:**

18 Q. Tell the jury what they're looking at here.

19 A. It's another subscriber information report for Michael
20 Moynihan, 716-573-2174 is the number, done for Bongo.

21 Q. So the intel analysts had identified numbers for Baker,
22 Moynihan, Masecchia, through their subpoena work, correct?

23 A. Yes.

24 Q. The subpoena for Masecchia was subpoenaed directly; is
25 that correct?

11:59AM 1 A. Yes.

11:59AM 2 Q. Is the phone number for Masecchia written on that list
11:59AM 3 anywhere, Government Exhibit 100E-1?

11:59AM 4 A. No.

11:59AM 5 **MR. TRIPI:** Okay. We can clear out of this one.

11:59AM 6 Actually, open that one again, I'm sorry. Same one, Moynihan
11:59AM 7 phone info. And go to page 2 for me. And can we make that
11:59AM 8 larger.

11:59AM 9 **BY MR. TRIPI:**

11:59AM 10 Q. Is this a -- tell the jury what this is.

11:59AM 11 A. It's the screen print of the DARTS entry identifying
11:59AM 12 716-573-2174 as belonging to Moynihan.

12:00PM 13 Q. Can you read the Trinity remarks?

12:00PM 14 A. Number part of on going narcotics investigation belonging
12:00PM 15 to Michael Moynihan per S.A. Bongiovanni.

12:00PM 16 Q. Is Michael Moynihan's name on that list?

12:00PM 17 A. Yes.

12:00PM 18 Q. So, based on this information here, does it appear
12:00PM 19 Bongiovanni knew who Moynihan was?

12:00PM 20 A. Yes.

12:00PM 21 **MR. TRIPI:** Okay. Now we can clear out of there.

12:00PM 22 Can we open NYAG intel report 6/2/98 please. And can we
12:00PM 23 scroll down. Straighten out on the next page. Okay. Stop
12:00PM 24 there.

25

12:00PM

1 **BY MR. TRIPI:**

12:00PM

2 Q. In the related subjects category, do you see the names

12:01PM

3 for Robert Mettal, Ronald Serio, and Thomas Serio?

12:01PM

4 A. It's at the section at the top, I see that.

12:01PM

5 Q. Are you at page 3 of 3, do you see that?

12:01PM

6 A. 3 of 3, but I don't have the header for the section.

12:01PM

7 Q. Oh, I understand. Sorry about that.

12:01PM

8 **MR. TRIPI:** Ms. Champoux, go to the top of the

12:01PM

9 document again. Just the previous page. Spin it for him,

12:01PM

10 please. Page 2 needs to be oriented properly when he gets

12:01PM

11 there. Thank you.

12:01PM

12 **THE WITNESS:** Okay. Yes, related subjects, and I see

12:01PM

13 it.

12:01PM

14 **BY MR. TRIPI:**

12:01PM

15 Q. Did you see Mettal and both Serio brothers on the list?

12:01PM

16 A. Mettal? Yes.

12:01PM

17 **MR. TRIPI:** Okay. We can clear out of there.

12:01PM

18 **BY MR. TRIPI:**

12:01PM

19 Q. So Mr. Bongiovanni had several New York State Attorney

12:02PM

20 General intelligence reports in his basement upon retirement;

12:02PM

21 is that right?

12:02PM

22 A. Yes.

12:02PM

23 **MR. TRIPI:** Can we open the pdf that says Oddo NADDIS

12:02PM

24 record. And this is a three-page pdf. Can we scroll down.

25

1 Q. Does there appear to be a phone number associated in
2 handwritten ink there?

3 A. Yes.

4 **MR. TRIPI:** Can we scroll to the next page.

5 **BY MR. TRIPI:**

6 Q. Is that a Buffalo Police Department booking data sheet
7 for Robert Mettal?

8 A. Yes.

9 Q. And does it tell you who ran the report and when?

10 A. Yes. It says the date of the report is 5/6/2013. Run by
11 Joseph Palmieri.

12 Q. Do local TFOs have access to local police department
13 arrest booking documents?

14 A. Yes.

15 Q. Is that one of the functions that local police agency
16 TFOs serve at DEA?

17 A. Yes.

18 **MR. TRIPI:** Let's scroll down. And stop there.

19 **BY MR. TRIPI:**

20 Q. When was that arrest and booking from for this Buffalo
21 Police Department arrest?

22 A. December 17th, 1998.

23 Q. So, in 2013, Palmieri is running a report from 1998?

24 A. Yes.

25 **MR. TRIPI:** Please scroll down.

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1 **BY MR. TRIPI:**

2 Q. Look at page 3 of this. What does page 3 of this show?

3 A. It's the first page of a DEA report of investigation,

4 it's DEA-6.

5 Q. And this is from a special agent in Albuquerque, New

6 Mexico?

7 A. Yes.

8 Q. Date prepared 11/17/98?

9 A. Yes.

10 Q. And there's other officers listed, do you see who the

11 agency referenced there?

12 A. Quay County Sheriff's Deputy Greg Greenly.

13 Q. Is this a document that's supposed to be brought home at

14 retirement?

15 A. No.

16 **MR. TRIPI:** Can you scroll down to the next page?

17 Stop there.

18 **BY MR. TRIPI:**

19 Q. Do you see another DEA-6?

20 A. Yes.

21 Q. And what -- what agency -- what DEA branch is that one

22 from?

23 A. Long Island, group D13.

24 Q. And does that reference an arrest of Robert Mettal?

25 A. Yes.

1 Q. Is a DEA-6 from Long Island something that is supposed to
2 be removed from the DEA office and brought home and stored in
3 a basement?

4 A. No.

5 **MR. TRIPI:** We can scroll down further.

6 **BY MR. TRIPI:**

7 Q. Is there a DEA 202?

8 A. Yes.

9 Q. Is that another DEA sensitive document?

10 A. Yes.

11 Q. Is that something that's supposed to be removed from DEA
12 and brought down and stored in a basement?

13 A. No.

14 **MR. TRIPI:** Scroll down, please. That was page 5 of
15 the pdf. Keep going.

16 **BY MR. TRIPI:**

17 Q. Is this a continuation of the same 202?

18 A. Yes.

19 **MR. TRIPI:** That's page 6 of the pdf. Scroll through
20 it slowly, Ms. Champoux. Next page. Okay, we can clear out
21 of there.

22 Next, can you open the pdf that says Ron Serio
23 M-I-S-C.

24 This is a 12 page pdf.
25

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MR. TRIPI: Please scroll to page 4, please.

1 A. Yes.

2 **MR. TRIPI:** May the record reflect we've published
3 all 12 pages of that document for the jury, Your Honor.

4 We can clear out of there, Ms. Champoux. All right.
5 Can you click on the one that says SafetyNet submission and go
6 to page 2. At the very top -- stop, Ms. Champoux.

7 **BY MR. TRIPI:**

8 Q. Can you, at the very top, can you read the job status
9 report and the as-of date?

10 A. Job status report as of January 4th, 2013.

11 Q. And does it say page 1?

12 A. Page 1.

13 Q. So, this is back when fax machines were used; is that
14 right?

15 A. Yes.

16 Q. And in that time period, you would fax SafetyNet
17 submissions to SafetyNet; is that right?

18 A. Yes.

19 **MR. TRIPI:** And let's scroll down on this document.

20 **BY MR. TRIPI:**

21 Q. And under the investigator portion, can you read the
22 information there for the jury? We don't need to read the
23 Social Security Number, but begin with rank and go across.

24 A. Special Agent, DEA, Buffalo D-58, last name Bongiovanni,
25 first name Joseph.

1 Q. Keep going. Telephone number?

2 A. Telephone 716-846-4000. Pager/cell, 716-818-0966.

3 Q. Is that the cell phone number you know to be associated
4 with Bongiovanni while he was a DEA agent?

5 A. Yes. Fax number 716-854-3520. Email
6 joseph.s.bongiovanni@us.doj.gov.

7 Q. Okay. Now I'd like to go over a case number, C2-12-0026.
8 Do you know the file associated with the 202s for Ron and Tom
9 Serio to actually be C2-13-0026?

10 A. Yes.

11 **MR. TRIPI:** And let's scroll down a little bit so we
12 can read the subject information. Right there.

13 **BY MR. TRIPI:**

14 Q. Can you read that for the jury?

15 A. Last name, Serio. First name, Thomas. Middle, R.
16 Gang member, no. Gender, male. Race white.

17 Q. You don't have to read -- you can skip the social.
18 What's the location or the address?

19 A. Private residence. 26 Chapel Road, Kenmore, New York
20 14217.

21 Q. So is that a SafetyNet submission from January 4th, 2013,
22 for Thomas Serio?

23 A. Yes.

24 Q. And then we go to the next page down -- is that a
25 SafetyNet submission --

12:12PM 1 **MR. TRIPI:** Scroll down a little further. Go down to
12:12PM 2 the subject.
12:12PM 3 **BY MR. TRIPI:**
12:12PM 4 Q. -- for David Oddo?
12:12PM 5 A. Yes.
12:12PM 6 **MR. TRIPI:** And can we scroll to the next one
12:12PM 7 Ms. Champoux?
12:12PM 8 **BY MR. TRIPI:**
12:12PM 9 Q. The next one for the subject, Ronald Serio?
12:12PM 10 A. Yes.
12:12PM 11 Q. And what's the address there?
12:12PM 12 A. 697 Lebrun Road, Buffalo, 14226.
12:13PM 13 Q. And is there vehicle information there as well?
12:13PM 14 A. Yes. License plate FHH4905 from New York for a 2007
12:13PM 15 Maserati.
12:13PM 16 **MR. TRIPI:** And scroll down to the next one. Go down
12:13PM 17 to the subject for the next one.
12:13PM 18 **BY MR. TRIPI:**
12:13PM 19 Q. Is the subject -- is it the same C2-12-0026 you believe
12:13PM 20 should be 13-0026?
12:13PM 21 A. Yes.
12:13PM 22 Q. And is this an entry for an Jeremy Jones?
12:13PM 23 A. Jeremy Jones, 50 Tuxedo Place, Buffalo.
12:13PM 24 Q. And SafetyNet is a deconfliction tool for local law
12:13PM 25 enforcement; is that correct?

12:13PM 1 A. Yes.

12:13PM 2 Q. Utilized also federally?

12:13PM 3 A. Yes, for New York State.

12:14PM 4 **MR. TRIPI:** Okay. We can clear out of that,

12:14PM 5 Ms. Champoux. I'd like to next go to the one labeled Serio T
12:14PM 6 DARTS hits.

12:14PM 7 **BY MR. TRIPI:**

12:14PM 8 Q. So this -- is this similar to what we saw earlier for Ron
12:14PM 9 Serio but this one is for handwritten Thomas Serio with
12:14PM 10 particular phone number in file C2-13-0026?

12:14PM 11 A. Yes.

12:14PM 12 Q. Can you read the comments from the intel analyst at the
12:14PM 13 top?

12:14PM 14 A. Number of part of ongoing narcotics investigation. In
12:14PM 15 contact with target number 716-578-5296 per S.A. Bongiovanni.

12:14PM 16 Q. Okay. I'm not going to spend quite as much time as I did
12:14PM 17 with the Ron Serio one, but is the concept the same as when
12:14PM 18 you see zero intercepts or pertinent calls, does this mean
12:14PM 19 that this phone number for Mr. Serio has not been caught on a
12:14PM 20 wire with the phone number in the column to the left?

12:15PM 21 A. Right.

12:15PM 22 **MR. TRIPI:** Ms. Champoux, can you scroll down.

12:15PM 23 **BY MR. TRIPI:**

12:15PM 24 Q. Okay. So fair to say with respect to that phone number,
12:15PM 25 we saw three other phone numbers, and there were no

1 intercepts or pertinent calls?

2 A. Right.

3 Q. Okay.

4 **MR. TRIPI:** We can clear out of there. Open the
5 T Serio toll analysis pdf.

6 **BY MR. TRIPI:**

7 Q. And, again, this is a similar document that the jury's
8 seen before, but this one is for Thomas Serio under
9 C2-13-0026, and the same number 578-5296; is that right?

10 A. Yes.

11 Q. And what name did the intel analyst write in the upper
12 corner with the associated agent?

13 A. Bongiovanni.

14 **MR. TRIPI:** And can we scroll down, Ms. Champoux.

15 **BY MR. TRIPI:**

16 Q. And for entries 1 through 22, all no subscriber hits,
17 correct?

18 A. Correct.

19 **MR. TRIPI:** Go to the next page.

20 **BY MR. TRIPI:**

21 Q. 23 through 38, all no subscriber, correct?

22 A. Correct.

23 Q. And to find out who those people were, either more
24 subpoenas would need to be issued, or they were burner
25 phones, correct?

12:16PM 1 A. Correct.

12:16PM 2 **MR. TRIPI:** Okay. We can clear out of there.

12:16PM 3 **BY MR. TRIPI:**

12:16PM 4 Q. And there's a Suppa J electric sub response. And does
12:16PM 5 this associate John Suppa with 1195 Hertel Avenue in Buffalo,
12:16PM 6 New York?

12:16PM 7 A. Yes.

12:16PM 8 Q. And is that also an address that was associated on some
12:16PM 9 of the records we've seen for Michael Masecchia?

12:16PM 10 A. Yes.

12:17PM 11 **MR. TRIPI:** Scroll down to the next page, page 2.

12:17PM 12 This is a nine page pdf, for the record. Can we go to page 4
12:17PM 13 of this, please.

12:17PM 14 **BY MR. TRIPI:**

12:17PM 15 Q. And so the -- is that a copy of an administrative
12:17PM 16 subpoena that was issued to National Grid?

12:17PM 17 A. Yes.

12:17PM 18 Q. And who did the administrative subpoena for that address?

12:17PM 19 A. Stephen Bevilacqua.

12:17PM 20 Q. And he's an intel analyst?

12:17PM 21 A. Yes.

12:17PM 22 **MR. TRIPI:** And please scroll down.

12:17PM 23 All right. We can clear out of this one.

12:17PM 24 Let's go to Tom Serio M-I-S-C.

25

12:19PM 1 A. Yes.

12:19PM 2 **MR. TRIPI:** Scroll down, please.

12:19PM 3 **BY MR. TRIPI:**

12:19PM 4 Q. And then I'm not going to go through the whole

12:19PM 5 Lexis/Nexis report, but tell the jury what that is.

12:19PM 6 A. It's a service that we get access to as investigators or

12:19PM 7 analysts. It aggregates public records.

12:19PM 8 Q. So property --

12:19PM 9 A. Addresses, phone numbers sometimes, depending on the

12:19PM 10 state, maybe vehicles associated with the person you're

12:19PM 11 searching for.

12:19PM 12 **MR. TRIPI:** Okay. We can clear out of there,

12:19PM 13 Ms. Champoux. And can we go to Vitale Sprint subpoena info.

12:19PM 14 **BY MR. TRIPI:**

12:19PM 15 Q. And, so, that's dated December 14th, 2015; is that right?

12:19PM 16 A. Yes.

12:19PM 17 Q. Is that the month that you know that DEA did a search

12:19PM 18 warrant -- withdrawn, that Tonawanda Police did a search

12:20PM 19 warrant related to Mark Vitale?

12:20PM 20 A. Yes.

12:20PM 21 Q. And does it appear Special Agent Casullo issued a

12:20PM 22 subpoena in relation to Mark Vitale?

12:20PM 23 A. Yes.

12:20PM 24 **MR. TRIPI:** Let's scroll down.

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BY MR. TRIPI:

Q. Does it look like the information related to a date range that began prior to when the search warrant happened?

A. Yes.

Q. And is the actual account billing in the name of a Michele Vitale?

A. Yes.

MR. TRIPI: Please keep scrolling down.

I'm looking for a DARTS Trinity entry, Ms. Champoux. We can go a little quicker, it will be okay. Okay. Right here.

BY MR. TRIPI:

Q. Now this doesn't have a header at the top as to whose email this came in on, does it?

A. No. This -- but this could have also been printed from the DARTS system.

Q. Okay. So we don't have an email header?

A. No.

Q. And when you said printed from the DARTS system, what do you mean by that?

A. So, you it's your -- in the website entering the phone numbers, you put in the numbers and hit next. And then it tells you which of the phone numbers you entered have -- do or don't have a previous entry.

Q. So the defendant had in his basement DARTS and subpoena

1 information related to Mark Vitale, correct?

2 A. Yes.

3 Q. Looking at Government Exhibit 100E-1, is Mark Vitale the
4 name at the top of the list?

5 A. Yes.

6 Q. Is it right above Thomas Serio's name?

7 A. Yes.

8 Q. And right below that is Ron Serio's name?

9 A. Yes.

10 **MR. TRIPI:** We can clear out of there, Ms. Champoux.
11 Next go to Vitale M toll analysis.

12 **BY MR. TRIPI:**

13 Q. And what are we looking at here, or what is the jury
14 looking at?

15 A. So, it looks like it's in the form of a hot number list
16 or a hot sheet, because the -- for example, calls is
17 descending and decreasing in order as you descend on the
18 sheet for Mark Vitale.

19 Q. And, based upon the phone number 481-8002 and the
20 handwritten name John Robinson, does it appear the name John
21 Robinson was associated with Mark Vitale?

22 A. Yes.

23 **MR. TRIPI:** Okay. We can clear out of there.

24 **BY MR. TRIPI:**

25 Q. And that toll analysis was in the defendant's basement

12:22PM 1 also; is that right?

12:22PM 2 A. Yes.

12:22PM 3 Q. Now do you know what an OCDETF case is?

12:23PM 4 A. Yes.

12:23PM 5 Q. Do you know how an OCDETF case is started?

12:23PM 6 A. The process of approval are you asking?

12:23PM 7 Q. Withdrawn. What is an OCDETF case?

12:23PM 8 A. So, OCDETF stands for Organized Crime Drug Enforcement

12:23PM 9 Task Force, and it's generally a multi-defendant,

12:23PM 10 multidistrict drug distribution case.

12:23PM 11 Q. The first two letters in the acronym stand for Organized

12:23PM 12 Crime; is that right?

12:23PM 13 A. Yes.

12:23PM 14 Q. And is there an approval process that involves an agent

12:23PM 15 or a task force officer writing up basically the parameters

12:23PM 16 of what the organization is believed to be, and what they

12:23PM 17 believe they can accomplish through investigation?

12:23PM 18 A. Yes.

12:23PM 19 Q. And is there an approval process in place that has to go

12:23PM 20 through both the U.S. Attorney's Office and higher up in the

12:23PM 21 department?

12:23PM 22 A. Yes, there's a local board at the U.S. Attorney's Office

12:23PM 23 here, if you're proposing a case in Buffalo. And then the

12:24PM 24 next level of review is for the region, it's in New York

12:24PM 25 City.

12:24PM 1 Q. Are OCDETF proposals and the information written in them
12:24PM 2 highly sensitive documents in the law enforcement community?
12:24PM 3 A. Yes.
12:24PM 4 Q. Are OCDETF investigations, as it relates to narcotics, in
12:24PM 5 your view, some of the most important investigations that are
12:24PM 6 happening in narcotics investigations in a district at a
12:24PM 7 given time?
12:24PM 8 A. Yes.
12:24PM 9 Q. Let's open the Tripi OCDETF proposal pdf. And so let's
12:24PM 10 start here. That's the acronym we've been talking about,
12:24PM 11 Organized Crime Drug Enforcement Task Force; is that right?
12:24PM 12 A. Yes.
12:24PM 13 Q. And there's some blank boxes there; is that right?
12:24PM 14 A. Yes.
12:24PM 15 Q. Now a completed proposal would have the numbers fully
12:24PM 16 written in; is that right?
12:24PM 17 A. Once the review's done and the case is approved by the
12:24PM 18 regional board in New York City or the -- then, yes, that
12:24PM 19 gets assigned an OCDETF case number, the four digits that
12:24PM 20 would be in those box.
12:24PM 21 Q. And NYNYW, does that mean essentially the Western
12:25PM 22 District of New York?
12:25PM 23 A. Yes.
12:25PM 24 Q. If we scroll down to the operation name, does every
12:25PM 25 OCDETF operation name get a name?

12:25PM 1 A. Yes.

12:25PM 2 Q. And what was the name of this proposal?

12:25PM 3 A. Past Due.

12:25PM 4 Q. Now I'm going to fast forward for just a moment. Does

12:25PM 5 this appear to be a draft of what was later a complete

12:25PM 6 proposal?

12:25PM 7 A. Yes. And the way to know for sure would be to look at

12:25PM 8 the signature section to see if it's spelled out.

12:25PM 9 Q. We'll get there.

12:25PM 10 A. Okay.

12:25PM 11 Q. But you've seen and scanned this document before?

12:25PM 12 A. Yes.

12:25PM 13 Q. Now, the case attorney at the time, do you know that Tim

12:25PM 14 Lynch was the OCDETF program administrator in the Western

12:25PM 15 District of New York?

12:25PM 16 A. Yes.

12:25PM 17 Q. And at one point, was he the section chief in the

12:25PM 18 narcotics and organized crime section?

12:25PM 19 A. Yes.

12:25PM 20 Q. Now you see case agents, and you see some names there?

12:25PM 21 A. Yes.

12:25PM 22 Q. Do you know who TFA Chris Clark is with the DEA?

12:25PM 23 A. Yes.

12:26PM 24 Q. Who is that?

12:26PM 25 A. He's a detective from the Niagara Falls Police

12:26PM 1 Department, and then he's a task force officer in group D-58.

12:26PM 2 Q. Do you know who Dave Turri is?

12:26PM 3 A. An IRS special agent.

12:26PM 4 Q. And do you know who Jason Bernhard is?

12:26PM 5 A. I'm not familiar with Jason Bernhard.

12:26PM 6 Q. Do you know the agency ATF here in Buffalo?

12:26PM 7 A. Yes.

12:26PM 8 Q. Okay. And do you know that Michelle Spahn was a prior

12:26PM 9 group supervisor at DEA?

12:26PM 10 A. Yes.

12:26PM 11 Q. Let's scroll down a little bit. What does it say in

12:26PM 12 black lettering there, can you read that for us?

12:26PM 13 A. Law enforcement sensitive.

12:26PM 14 Q. What does that mean?

12:26PM 15 A. That if the information's exposed, it could compromise an

12:26PM 16 ongoing investigation.

12:26PM 17 Q. And do you see several stamps there underneath that,

12:26PM 18 Department of Treasury, Department of Justice, and Department

12:26PM 19 of Homeland Security?

12:26PM 20 A. Yes.

12:26PM 21 Q. Is this an important document --

12:26PM 22 A. Yes.

12:26PM 23 Q. -- from a law enforcement perspective?

12:26PM 24 A. Yes.

12:26PM 25 **MR. TRIPI:** Scroll to the next page, please. Go to

12:27PM 1 page 2.

12:27PM 2 **BY MR. TRIPI:**

12:27PM 3 Q. What does it say in the box at the very top of the page?

12:27PM 4 A. Law enforcement sensitive.

12:27PM 5 Q. Does it say federal judicial district initiating this
12:27PM 6 investigation?

12:27PM 7 A. Yes.

12:27PM 8 Q. What does it say?

12:27PM 9 A. It says it's the Western District of New York.

12:27PM 10 Q. And that's where we are right now?

12:27PM 11 A. Yes.

12:27PM 12 Q. Does it say special operations division coordination?

12:27PM 13 A. Yes.

12:27PM 14 Q. What is SOD?

12:27PM 15 A. That's in Northern Virginia. It's a -- a -- not an
12:27PM 16 agency, it's a cooperative endeavor between FBI, his, DEA,
12:27PM 17 other law enforcement agencies, to coordinate investigations
12:27PM 18 especially investigations that go beyond the originating
12:27PM 19 district.

12:27PM 20 Q. And then there's an SOD staff coordinator, Tim Foley?

12:27PM 21 A. Yes.

12:27PM 22 Q. Is he someone who works in the Department of Justice
12:27PM 23 coordinating these types of cases?

12:27PM 24 A. Yes.

12:27PM 25 Q. Skip down a little bit, there's a list of perspective

12:28PM 1 defendants; do you see that?

12:28PM 2 A. Yes.

12:28PM 3 Q. Let's go with that name at the very top, Frank Tripi.

12:28PM 4 First of all, that's no relation of mine, correct?

12:28PM 5 A. Correct.

12:28PM 6 Q. All right. Next one down, Lawrence Panaro?

12:28PM 7 A. Yes.

12:28PM 8 Q. Bonita Pugliese?

12:28PM 9 A. Yes.

12:28PM 10 Q. Mark and Sam Zito?

12:28PM 11 A. Yes.

12:28PM 12 Q. Matthew Pallaci?

12:28PM 13 A. Yes.

12:28PM 14 Q. Ray Gordner?

12:28PM 15 A. Yes.

12:28PM 16 Q. Michael Crumpton?

12:28PM 17 A. Yes.

12:28PM 18 Q. Patricia Davis?

12:28PM 19 A. Yes.

12:28PM 20 Q. Shawn Finitz?

12:28PM 21 A. Yes.

12:28PM 22 Q. And Emmanuael Soothran; is that right?

12:28PM 23 A. Yes.

12:28PM 24 Q. Is this information you would ever take out of a secure

12:28PM 25 space in a law enforcement environment and put it in your

12:28PM 1 basement?

12:28PM 2 A. No.

12:28PM 3 Q. Based upon your knowledge, during the course of this

12:28PM 4 investigation, are some of those names believed to be

12:28PM 5 associates of Italian Organized Crime?

12:28PM 6 A. Yes.

12:28PM 7 Q. Here in Buffalo, New York?

12:29PM 8 A. Yes.

12:29PM 9 **MR. TRIPI:** Scroll down to the next page, page 3.

12:29PM 10 **BY MR. TRIPI:**

12:29PM 11 Q. What does it say at the very top?

12:29PM 12 A. Law enforcement sensitive.

12:29PM 13 Q. And then on the agency involvement, are there various

12:29PM 14 checked boxes for the different agencies involved?

12:29PM 15 A. Yes.

12:29PM 16 Q. And we see ATF, DEA, IRS, state and local agencies

12:29PM 17 including the Niagara Falls Police Department?

12:29PM 18 A. Yes.

12:29PM 19 Q. And it has list of number of personnel involved from each

12:29PM 20 agency?

12:29PM 21 A. Yes.

12:29PM 22 **MR. TRIPI:** Scroll down.

12:29PM 23 **BY MR. TRIPI:**

12:29PM 24 Q. At the top of page 4, what does that box say?

12:29PM 25 A. Law enforcement sensitive.

12:29PM 1 Q. And are there boxes to check for whether this has
12:29PM 2 international ties potentially?
12:29PM 3 A. Oh, yes. I see it now.
12:30PM 4 Q. Is the box for internationally checked?
12:30PM 5 A. Yes.
12:30PM 6 Q. Is a country specified?
12:30PM 7 A. Canada.
12:30PM 8 Q. Is a box for multiple states checked?
12:30PM 9 A. Yes.
12:30PM 10 Q. What states are listed?
12:30PM 11 A. California and Nevada.
12:30PM 12 Q. Is the box for multiple districts checked?
12:30PM 13 A. Yes.
12:30PM 14 Q. What's the other district specified?
12:30PM 15 A. Northern District of California.
12:30PM 16 Q. And the box for drugs under investigations, what boxes
12:30PM 17 were checked for the drugs under investigation in this case?
12:30PM 18 A. Cocaine, heroin, marijuana.
12:30PM 19 Q. In the middle section, organization description under the
12:30PM 20 money laundering movement methods identified, were there
12:30PM 21 boxes for potential money laundering methods checked?
12:30PM 22 A. Yes.
12:30PM 23 Q. What boxes were checked?
12:30PM 24 A. Bulk cash movement by air, wire transfer, business
12:30PM 25 fronts, casinos, and property investments.

1 Q. And in the far right side --

2 **MR. TRIPI:** Go back up a little bit, please.

3 **BY MR. TRIPI:**

4 Q. Primary activity of organization in your area, there's a
5 box for money laundering; is that right?

6 A. Yes, the box for money laundering is checked.

7 Q. And then other drug activity of organization, what boxes
8 are checked?

9 A. Source of supply, transportation, distribution, and money
10 laundering.

11 Q. And this document was in this Redweld in that box in the
12 defendant's basement?

13 A. Yes.

14 Q. The box being Exhibit 100A?

15 A. Yes.

16 **MR. TRIPI:** Scroll down.

17 **BY MR. TRIPI:**

18 Q. On the bottom of the page, what does it say?

19 A. Law enforcement sensitive.

20 Q. At the top of the next page, page 5, what does it say?

21 A. Law enforcement sensitive.

22 **MR. TRIPI:** Keep scrolling, Ms. Champoux.

23 **BY MR. TRIPI:**

24 Q. Does it have a box checked for informant under the
25 general investigative techniques?

12:31PM 1 A. Yes.

12:32PM 2 **MR. TRIPI:** Keep scrolling, Ms. Champoux.

12:32PM 3 **BY MR. TRIPI:**

12:32PM 4 Q. At the top of page 6, what does it say in the box, bold
12:32PM 5 box there?

12:32PM 6 A. Law enforcement sensitive.

12:32PM 7 Q. And is there a box for date requested, of the date of OFC
12:32PM 8 product?

12:32PM 9 A. Yes.

12:32PM 10 Q. What's the date there?

12:32PM 11 A. March 11, 2013.

12:32PM 12 Q. As of March 11, 2013, was the Wayne Anderson file and
12:32PM 13 C2-13-0026 also open?

12:32PM 14 A. Yes.

12:32PM 15 **MR. TRIPI:** Scroll down. Keep scrolling.

12:32PM 16 **BY MR. TRIPI:**

12:32PM 17 Q. Top of page 7, does it again say law enforcement
12:32PM 18 sensitive?

12:32PM 19 A. Yes.

12:32PM 20 Q. And then, you know this one wasn't the completed copy
12:33PM 21 because all of these signature boxes or many of them would be
12:33PM 22 filled in, correct?

12:33PM 23 A. That's correct.

12:33PM 24 **MR. TRIPI:** Keep scrolling down, Ms. Champoux.

25

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NFPD narcotics detectives interviewed an employee that quit after one week of employment at the collection agency that remained anonymous. He/she observed illegal activity such as cocaine, heroin, prescription drugs, and marijuana being sold out of the collection agency. He/she stated that Frank Tripi, the owner of the agency, stayed in the back

office which was off limits to the employees.

MR. TRIPI: Ms. Champoux, can we hold that for a moment. And can we pull up Government Exhibit 46 please. Mr. Serio's list of contacts.

And can you locate for the jury the name Frank Tripi, please? I don't have the number for you.

BY MR. TRIPI:

Q. Is that the Frank Tripi who was the target of Operation Past Due, Special Agent Ryan?

A. Yes, it is.

MR. TRIPI: Okay. We can go back to 100A.1, continue with the pdf.

Okay. We can scroll down a little bit further, we don't need to read all of that detail right now. I'd like to go to the last paragraph. All right, stop there. Sorry, go to the next page, page 10.

BY MR. TRIPI:

Q. And can we read under 5, targeted organization. And just read A through F please.

A. Yes. The Frank Tripi Drug-Trafficking Organization.

The geographic scope of this organization has currently been identified as being Santa Cruz, California and the Western New York area, specifically Niagara Falls, New York, and Buffalo, New York.

The total number of participants in this organization has

1 yet to be fully identified. However, it is believed that the
2 organization consists of at least eleven identified members,
3 and likely many more who have yet to be identified.

4 It is believed that this organization is currently
5 engaged in the distribution of cocaine, heroin, marijuana,
6 and various prescription drugs.

7 It is currently believed, based on confidential source
8 information, that this organization is distributing in excess
9 of at least 2 kilograms of cocaine and multiple ounce
10 quantities of heroin, multiple pounds of marijuana, and
11 unknown quantities of prescription drugs per month in the
12 Western New York area.

13 Tripi is obtaining his heroin from Ohio and driving it
14 back to the Western New York area in vehicles with hidden
15 compartments.

16 Tripi himself is also involved with the coordination of
17 trafficking of cocaine, marijuana, and prescription drugs.

18 It is unknown at the present time how the cocaine and
19 prescription drugs are delivered to Tripi.

20 **MR. TRIPI:** Can we scroll down the next section.

21 **BY MR. TRIPI:**

22 Q. Just read the first sentence of B-1, please.

23 A. The overall goals of this investigation are to identify
24 the totality of this drug-trafficking organization, including
25 but not limited to the commanding and control elements,

1 smuggling routes and methods, distribution networks, methods
2 utilized to avoid apprehension by law enforcement, and money
3 laundering methods.

4 **MR. TRIPI:** Okay. We can clear out of there,
5 Ms. Champoux.

6 Just a moment, Your Honor.

7 No further direct, Your Honor.

8 **THE COURT:** Okay. So we're going to take our lunch
9 break now.

10 Please remember my instructions about not discussing
11 any aspect of the case with anyone. Don't do any research on
12 your own. Don't use tools of technology to either research
13 the case or to communicate about the case. Don't read, listen
14 to, or watch any news coverage if there is any while the case
15 in on trial. Don't make up your mind about anything until the
16 case has been finally given to you for deliberations.

17 Let's come back at 2:00. We'll resume then. Thank
18 you very much.

19 (Jury excused at 12:39 p.m.)

20 **THE COURT:** Anything that needs to go on the record
21 before we break?

22 **MR. TRIPI:** Not from the government, Your Honor.

23 **MR. MacKAY:** No, Your Honor.

24 **THE COURT:** Okay. We'll see you at 2.

25 **THE CLERK:** All rise.

12:40PM 1 (Off the record at 12:40 p.m.)

02:04PM 2 (Back on the record at 2:04 p.m.)

02:04PM 3 (Jury not present.)

02:04PM 4 **THE CLERK:** All rise.

02:04PM 5 **THE COURT:** Please be seated.

02:04PM 6 **THE CLERK:** We are back on the record for the
02:04PM 7 continuation of the jury trial in case number 19-cr-227,
02:04PM 8 United States of America versus Joseph Bongiovanni.

02:04PM 9 All counsel and parties are present.

02:04PM 10 **THE COURT:** Okay. Anything we need to put on the
02:04PM 11 record before we resume?

02:04PM 12 **MR. TRIPI:** No, Your Honor.

02:04PM 13 **MR. MacKAY:** No, Your Honor.

02:04PM 14 **THE COURT:** Okay. Let's bring them back in, please,
02:04PM 15 Pat. And let's get the witness in, please.

02:06PM 16 (Jury and witness seated at 2:06 p.m.)

02:06PM 17 **THE COURT:** The record will reflect that all our
02:06PM 18 jurors are present again.

02:06PM 19 The witness is still under oath.

02:06PM 20 And, Mr. MacKay, you're going to cross?

02:06PM 21 **MR. MacKAY:** I am, Your Honor.

02:06PM 22 **THE COURT:** You may begin.

02:06PM 23

02:06PM 24 **CROSS-EXAMINATION BY MR. MacKAY:**

02:06PM 25 Q. Agent Ryan, bear with me a second so I can get my legal

02:06PM 1 work set up and my cold medication.

02:06PM 2 A. Certainly.

02:06PM 3 Q. I'm losing my voice here, so bear with me. All right.

02:06PM 4 So, in the physical file we saw, Government Exhibit 100,
02:07PM 5 that's known as a working file, correct?

02:07PM 6 A. Yes.

02:07PM 7 Q. Now, I think your testimony was you came over to DEA
02:07PM 8 about April of 2017?

02:07PM 9 A. Sometime around there.

02:07PM 10 Q. I mean, you were with his in 2012, but eventually you
02:07PM 11 make the leap over to DEA some years later?

02:07PM 12 A. Only as a task force officer, so on loan to DEA.

02:07PM 13 Q. Right, that's what I meant.

02:07PM 14 A. Yes.

02:07PM 15 Q. By the time you come over to DEA, were there still paper
02:07PM 16 working files at that time?

02:07PM 17 A. Yes.

02:07PM 18 Q. Okay. And by the time you left?

02:07PM 19 A. Yes.

02:07PM 20 Q. Okay. But over time, to your knowledge, it was
02:07PM 21 transitioned to some -- to a computer system as well, too,
02:07PM 22 right?

02:07PM 23 A. Yes, that was happening while I was there.

02:07PM 24 Q. Okay. Right, it's not a -- it's not an instantaneous
02:07PM 25 transfer, it happens over time, correct?

02:07PM 1 A. Yes.

02:07PM 2 Q. Okay.

02:08PM 3 **MR. MacKAY:** All right. Ms. Champoux, can we pull up
02:08PM 4 Government Exhibit 100A.1? Can you go to the -- I guess I'd
02:08PM 5 call it, like, the -- a file selection list.

02:08PM 6 **THE CLERK:** All set.

02:08PM 7 **MR. MacKAY:** Okay. Thank you.

02:08PM 8 **BY MR. MacKAY:**

02:08PM 9 Q. All right. Agent Ryan, I'm going to take you through
02:08PM 10 some of the files we looked at on your direct.

02:08PM 11 **MR. MacKAY:** Ms. Champoux, can we go down to the
02:08PM 12 bottom. All right. Actually, why don't we start with the
02:09PM 13 handwritten note, if we can open that file. Can we zoom out
02:09PM 14 on that a little bit?

02:09PM 15 **BY MR. MacKAY:**

02:09PM 16 Q. Do you recall seeing this note on your direct?

02:09PM 17 A. Yes.

02:09PM 18 Q. This is a scan of what looks to be a handwritten note
02:09PM 19 here?

02:09PM 20 A. Yes.

02:09PM 21 Q. As you sit here today, do you know if that's even Joe
02:09PM 22 Bongiovanni's handwriting?

02:09PM 23 A. No, I don't.

02:09PM 24 Q. Now it's common for, as a DEA agent or task force
02:09PM 25 officer, you need to get sort of tips off the street about

02:09PM 1 information about drug dealers, correct?

02:09PM 2 A. Sometimes.

02:09PM 3 Q. What I'm saying is sometimes you get people calling in

02:09PM 4 with information about drug activity, correct?

02:09PM 5 A. Yes.

02:09PM 6 Q. You also take notes during proffers of informants,

02:09PM 7 correct?

02:09PM 8 A. Yes.

02:09PM 9 Q. There can also be meetings taken -- or, notes taken

02:09PM 10 during group meetings, correct?

02:10PM 11 A. Yes.

02:10PM 12 Q. All right. Let's look at some of the stuff that's

02:10PM 13 embodied in this note. Mr. Tripi led you through some of it.

02:10PM 14 At the top we see Ron Serio's name, correct?

02:10PM 15 A. Yes.

02:10PM 16 Q. A little below that, we see Dave Oddo's name, correct?

02:10PM 17 A. Yes.

02:10PM 18 Q. A little below that to the right side, we see Tom Serio's

02:10PM 19 name?

02:10PM 20 A. Yes.

02:10PM 21 Q. Right next to that, do you see where it says CREME BEAME?

02:10PM 22 A. I do.

02:10PM 23 Q. Any idea what that means?

02:10PM 24 A. No.

02:10PM 25 Q. Possible it referred to a white BMW 650I?

02:10PM 1 A. It could be.

02:10PM 2 Q. And below that, do you recognize that to be one of Tom
02:10PM 3 Serio's numbers?

02:10PM 4 A. I would need the list to confirm it, but yes, I think so.

02:10PM 5 Q. So fair to say, looking at this, what this may possibly
02:10PM 6 be is a collection of notes from some sort of source
02:10PM 7 interview?

02:10PM 8 A. It could be.

02:11PM 9 **MR. MacKAY:** Okay. Ms. Champoux, can we take that
02:11PM 10 down, and go out to the main list.

02:11PM 11 Can we go to the OCDETF document that's near the end.
02:11PM 12 Yes, that one, thank you.

02:11PM 13 **BY MR. MacKAY:**

02:11PM 14 Q. All right. Now, for the record, we're on page 1 here.
02:11PM 15 This, you led us through, this was a draft OCDETF initiation
02:11PM 16 form, correct?

02:11PM 17 A. This first part is the initiation form, and then the
02:11PM 18 narrative is a separate form, but it's attached to this, yes,
02:11PM 19 sir.

02:11PM 20 Q. Yeah. So in sum and substance, what this does, this is a
02:11PM 21 proposal to set up an OCDETF case, correct?

02:11PM 22 A. Yes.

02:11PM 23 **MR. MacKAY:** Ms. Champoux, can we jump down to the
02:11PM 24 page that starts the narrative? Okay. Right here.

25

2 Q. All right. So for the record we're on page 8 of 11. And
3 this is the narrative portion you were referring to, correct?
4 A. Yes.
5 Q. This kind of gives us some background about what
6 Operation Past Due is about, correct?
7 A. It does.
8 Q. From reading this narrative and from your investigation,
9 you know that one of the targets here was Frank Tripi,
0 correct?
1 A. Yes.
2 Q. Now Frank Tripi was connected to debt collection in
3 Niagara Falls, correct?
4 A. He was.
5 Q. And he was also a connection developed regarding possible
6 marijuana trafficking, correct?
7 A. Among other things, yes.
8 Q. Well, one those things was he had a connection in
9 Northern California to some sort of land he had, correct? Or
0 somebody connected to him had?
1 A. There was some connection to Northern California that
2 brought the Northern District of California in.
3 Q. Okay. So from this narrative, we know that Frank Tripi
4 is involved in marijuana, correct?
5 A. Yes.

02:13PM 1 Q. And we know that he's involved in collection agencies,
02:13PM 2 correct?

02:13PM 3 A. Yes.

02:13PM 4 Q. And in your investigation, you came to learn that Ron
02:13PM 5 Serio was also involved in collection activities, correct?

02:13PM 6 A. Yes.

02:13PM 7 Q. Okay. And I think we went through this ad nauseam, but
02:13PM 8 this is just -- this is a draft proposal at this stage,
02:13PM 9 correct?

02:13PM 10 A. At this stage, yes.

02:13PM 11 Q. Because we don't see initials or signatures on it,
02:13PM 12 correct?

02:13PM 13 A. Correct.

02:13PM 14 Q. All right.

02:13PM 15 **MR. MacKAY:** Ms. Champoux, you can close that out.
02:13PM 16 You can close all the tabs, I just want to say.

02:13PM 17 Can we go to the Oddo NADDIS file. That one, yes.
02:13PM 18 If we can zoom out a little bit.

02:13PM 19 **BY MR. MacKAY:**

02:13PM 20 Q. All right. So this was, you testified, the NADDIS record
02:14PM 21 for Dave Oddo, correct?

02:14PM 22 A. Yes.

02:14PM 23 **MR. MacKAY:** Okay. Can we go to page 2, please,
02:14PM 24 Ms. Champoux? All right. Can we blow up the top header line,
02:14PM 25 please? Okay.

1 BY MR. MacKAY:

2 Q. Now can you see reading at the top it appears this NADDIS

3 report was run on July 2nd, 2012?

4 A. Yes.

5 Q. And it appears that the agent who ran it was Shane

6 Nastoff, correct?

7 A. That's correct.

8 Q. Okay. And then in sum and substance, what a NADDIS

9 report that shows below that is the prior entries for this

0 specific individual, correct?

1 A. Of remarks/entries usually made at the end of the DEA-6

2 or sometimes on a DEA 202, in my experience, but yes, it's a

3 roll up of those remarks.

4 Q. Fair to say that what it is is a way of looking at what

5 investigations have involved were targeted, the specific

6 subject, correct?

7 A. That's one way to use it, yes.

8 Q. DEA investigations?

9 A. DEA investigations.

0 Q. All right. But from this header as we can see, this is

1 being done in the summer of 2012, fair to say?

2 A. Yes.

3 Q. Okay. And your understanding and the documents reviewed

4 showed that the Ron Serio file was opened months later near

5 the end of 2012, correct?

02:15PM 1 A. November, December 2012.

02:15PM 2 Q. Okay.

02:15PM 3 **MR. MacKAY:** Okay. Ms. Champoux, you can close that
02:15PM 4 one out.

02:15PM 5 Can we go to the one listed Mettal docs? Can we
02:15PM 6 scroll -- I think it's the second page. Actually, can we
02:15PM 7 close this one out? I think there's other Robert Mettal
02:15PM 8 document.

02:16PM 9 I'm sorry, I think it's down under Robert. Robert
02:16PM 10 Mettal M-I-S-C. We can zoom out.

02:16PM 11 **BY MR. MacKAY:**

02:16PM 12 Q. Again, this is sort of the same thing for Robert Mettal,
02:16PM 13 correct?

02:16PM 14 A. Yes.

02:16PM 15 **MR. MacKAY:** Ms. Champoux, can we go to the next
02:16PM 16 page, please? Okay. So for the record, we're looking at
02:16PM 17 page 2. Can we zoom in on the top of that.

02:16PM 18 Okay. Actually, can we zoom out one level, please?

02:16PM 19 **BY MR. MacKAY:**

02:16PM 20 Q. And so you told us on direct that looking at this report,
02:16PM 21 you can see this references a booking date back in 1998,
02:16PM 22 correct?

02:16PM 23 A. Yes, on December 17th.

02:16PM 24 Q. Yeah. But in the upper right-hand corner, we can see the
02:16PM 25 report is run by Agent Palmieri on May 6th, of 2013, correct?

02:16PM 1 A. Yes.

02:16PM 2 Q. Now, did you come to learn in your investigation that
02:16PM 3 Robert Mettal and Thomas Serio were connected in some
02:17PM 4 fashion?

02:17PM 5 A. Yes.

02:17PM 6 Q. Okay. And they were connected because in the late '90s,
02:17PM 7 they were prosecuted by the State Attorney General's Office
02:17PM 8 for bulk cocaine trafficking, correct?

02:17PM 9 A. I don't remember the time frame, but I remember it was a
02:17PM 10 cocaine distribution.

02:17PM 11 Q. And do you recall it being a State Attorney General case?

02:17PM 12 A. I don't know if I knew who did the case, but --

02:17PM 13 Q. Well, so when you're investigating a subject, one of the
02:17PM 14 things you look up is what past investigations or
02:17PM 15 prosecutions that subject has, correct?

02:17PM 16 A. Yes.

02:17PM 17 Q. Because you want to know if there were law enforcement
02:17PM 18 agencies that had looked into a specific subject before,
02:17PM 19 correct?

02:17PM 20 A. Yes.

02:17PM 21 Q. And you want to see if those materialized into
02:17PM 22 prosecutions or convictions, correct?

02:17PM 23 A. Yes.

02:17PM 24 Q. Okay. Now, you told us here from this report you can
02:17PM 25 tell that it's being run May 6th of 2013, correct?

02:17PM 1 A. Yes.

02:17PM 2 **MR. MacKAY:** Now, Ms. Champoux, can we close this
02:18PM 3 out? Can we go to the government Exhibit 8A in evidence,
02:18PM 4 page 15.

02:18PM 5 **BY MR. MacKAY:**

02:18PM 6 Q. While she's pulling that up, did you come to learn in
02:18PM 7 your investigation that one of the informants Mr. Bongiovanni
02:18PM 8 met with was a gentleman named Robert Kaiser?

02:18PM 9 A. Yes.

02:18PM 10 Q. Okay. And did you understand that he met with Kaiser --

02:18PM 11 **MR. MacKAY:** Can we go to the next page,
02:18PM 12 Ms. Champoux? Let's go up two pages. One more page, please.
02:18PM 13 Okay. All right. For the record, what page are we on?

02:18PM 14 **MS. CHAMPOUX:** We're at page 13.

02:18PM 15 **MR. MacKAY:** So for the record, we're on page 13
02:18PM 16 here. Can we blow up the first paragraph, please? Okay.

02:18PM 17 **BY MR. MacKAY:**

02:18PM 18 Q. We don't have to go through all of the paragraph here,
02:18PM 19 but is this consistent with what you learned in your
02:19PM 20 investigation that DEA met with Robert Kaiser at the end of
02:19PM 21 April of 2013?

02:19PM 22 A. Yes.

02:19PM 23 Q. Well, and I mean, you look at the first sentence, does
02:19PM 24 that reference a date of April 30th, 2013, and a C.S. number
02:19PM 25 that you know to be associated with Robert Kaiser?

02:19PM 1 A. Yes.

02:19PM 2 Q. Okay. And then I'll direct you to the fourth line from
02:19PM 3 the bottom, start -- the sentence starting at the fifth line
02:19PM 4 of the bottom. So the agents have identified several
02:19PM 5 persons?

02:19PM 6 A. Yes, I see it.

02:19PM 7 Q. And one of those listed is Robert Mettal, correct?

02:19PM 8 A. Yes.

02:19PM 9 Q. Okay. So the report we saw back in Government Exhibit
02:19PM 10 100A.1 was run by Agent Palmieri occurs after this meeting
02:19PM 11 with Robert Kaiser, correct?

02:19PM 12 A. It does.

02:19PM 13 Q. Okay. So, is it -- can you -- can you -- strike that.

02:20PM 14 **MR. MacKAY:** All right. We can take this down.

02:20PM 15 All right. Can we go back to Government Exhibit
02:20PM 16 100A.1? I think it's a NYAG report. Let's pull up the one
02:20PM 17 without the date first.

02:20PM 18 **BY MR. MacKAY:**

02:20PM 19 Q. Again this is, for the record, a report regarding
02:20PM 20 New York State Attorney General investigation, correct?

02:20PM 21 A. Or looks like it originated from the Erie County Sheriff
02:20PM 22 and the Buffalo Police Department.

02:20PM 23 Q. Okay.

02:20PM 24 A. So some combination of the three probably.

02:20PM 25 Q. Okay. So you -- do you see where it says, for example,

1 the report number, case number, intelligence report, it all
2 says OCTF in front of the number?

3 A. Yes.

4 Q. Do you know that to be the Attorney General's Organized
5 Crime Task Force?

6 A. Yes.

7 **MR. MacKAY:** Can we scroll down on this page, please?
8 Little further, please. And on to the next page. And we can
9 stop there. Thanks.

10 **BY MR. MacKAY:**

11 Q. So for the record, we're on page 2 now. See number 25 is
12 circled, Robert Mettal?

13 A. Yes.

14 Q. This is, again, an Attorney General document
15 memorializing something to do with Robert Mettal, correct?

16 A. Yes.

17 **MR. MacKAY:** You can close that out, Ms. Champoux.
18 Can we open SafetyNet document?

19 **BY MR. MacKAY:**

20 Q. Okay. So, you're familiar with SafetyNet, correct?

21 A. Yes.

22 Q. I think you described it as being both a state and
23 federal law enforcement database for deconfliction in
24 New York State, correct?

25 A. It's run by the New York State Intelligence Center, yes.

02:22PM 1 Q. Meaning that it's supposed to prevent law enforcement
02:22PM 2 agencies in New York from getting in the way of each other;
02:22PM 3 is that a fair way to describe it?

02:22PM 4 A. Yes, that's one way it's used.

02:22PM 5 Q. Okay. I mean, it's one of the deconfliction databases,
02:22PM 6 correct?

02:22PM 7 A. Yes.

02:22PM 8 Q. Okay. Now, so I want to direct your attention to this
02:22PM 9 first page. You said that when you created these documents
02:22PM 10 in electronic form, what you did was scan in the hard copies
02:22PM 11 that you found in Exhibit 100, the physical file, correct?

02:22PM 12 A. Yes.

02:22PM 13 **MR. MacKAY:** All right. So can we zoom out on that a
02:22PM 14 little bit, Ms. Champoux?

02:22PM 15 **BY MR. MacKAY:**

02:22PM 16 Q. So, fair to say that what we're looking at here is the
02:23PM 17 cover sheet, and it's dated from the top October 31st, 2012?

02:23PM 18 A. Yes.

02:23PM 19 Q. That's the old line of the fax machines that tells when
02:23PM 20 the transmission goes through, correct?

02:23PM 21 A. Yes.

02:23PM 22 Q. And the fax transmission cover sheet appears to suggest,
02:23PM 23 does it not, that this is a fax going from Pete Talty to Joe
02:23PM 24 Bongiovanni?

02:23PM 25 A. Yes.

02:23PM 1 Q. Okay.

02:23PM 2 **MR. MacKAY:** All right, Ms. Champoux, can we go to
02:23PM 3 the second page, please?

02:23PM 4 **BY MR. MacKAY:**

02:23PM 5 Q. Okay. Now, on this page, though, you look at the job fax
02:23PM 6 completion, it's called job status report here at the top,
02:23PM 7 that's a different date, correct?

02:23PM 8 A. It says January 4th.

02:23PM 9 Q. Okay. So fair to say that probably the fax cover sheet
02:23PM 10 on page 1 doesn't really apply here to this second page,
02:23PM 11 correct?

02:23PM 12 A. Probably.

02:23PM 13 Q. Could have been a mix up, correct?

02:24PM 14 A. So we tried to keep the documents that were together,
02:24PM 15 together in the file as best we could when we created the
02:24PM 16 pdfs, but that doesn't mean that they necessarily went
02:24PM 17 together.

02:24PM 18 Q. Okay. And sometimes it just doesn't come out exactly the
02:24PM 19 way we hope, correct?

02:24PM 20 A. Well, I mean, they were together, maybe they just don't
02:24PM 21 go together.

02:24PM 22 Q. Okay. But what the sum and substance of the remainder of
02:24PM 23 this document is, is these are the submissions somebody makes
02:24PM 24 to the SafetyNet database to put the names in, correct?

02:24PM 25 A. Yes.

02:24PM 1 Q. And this is occurring back in early 2013, you were not at
02:24PM 2 the DEA at that time, correct?

02:24PM 3 A. I was not.

02:24PM 4 Q. Did you -- by the time you joined DEA in 2017, is it
02:24PM 5 still being done by fax?

02:24PM 6 A. No.

02:24PM 7 Q. Okay. Now, I mean, so, at that point in time, how do you
02:24PM 8 have to do it in 2017?

02:24PM 9 A. There was an online tool.

02:24PM 10 Q. Okay. Now, are you familiar with the fact that a
02:25PM 11 SafetyNet submission is only good for one year?

02:25PM 12 A. I don't remember that.

02:25PM 13 Q. Okay. But these were the only SafetyNet submissions that
02:25PM 14 you saw that you recovered in this file, correct?

02:25PM 15 A. Yes.

02:25PM 16 Q. Okay.

02:25PM 17 **MR. MacKAY:** All right. You can take that down,
02:25PM 18 Ms. Champoux. Can we go to the -- what's gonna be the DARTS
02:25PM 19 document, DARTS email 1/7/2019. Can we zoom in on that first
02:25PM 20 page of it?

02:25PM 21 **BY MR. MacKAY:**

02:25PM 22 Q. We've gone through a number of different DARTS reports,
02:25PM 23 and what we're looking at now is sort of one way you might
02:25PM 24 see that, correct?

02:25PM 25 A. Yes.

02:25PM 1 Q. This, for example, is in the format of an email occurring
02:26PM 2 in 2019, correct?

02:26PM 3 A. Yes.

02:26PM 4 Q. Some of the other formats we looked at are sort of
02:26PM 5 printouts of what you would see on the computer screen,
02:26PM 6 correct?

02:26PM 7 A. Yes, if you were reviewing the web page.

02:26PM 8 Q. And you went through, I think -- I think -- I don't
02:26PM 9 remember if it was this one, or there were some others, and I
02:26PM 10 think --

02:26PM 11 **MR. MacKAY:** Can we scroll down a little bit,
02:26PM 12 Ms. Champoux? This might not have been the one.

02:26PM 13 **BY MR. MacKAY:**

02:26PM 14 Q. But do you recall the one document that we looked at and
02:26PM 15 it showed whether there was any intercept on a specific phone
02:26PM 16 number?

02:26PM 17 A. Yes.

02:26PM 18 Q. Okay. I'm not sure which one that was specifically, but
02:26PM 19 I think at the very end, you told us that the intercept -- if
02:26PM 20 there's no intercepts noted for a document, it's going to
02:26PM 21 show -- you understand that to mean there's no Title III
02:26PM 22 wiretaps on the phone number, correct?

02:26PM 23 A. Correct.

02:26PM 24 Q. But you interpreted one of the entries to mean, though,
02:27PM 25 that the number could still be captured with a pen register,

02:27PM 1 correct?

02:27PM 2 A. Yes, I think it was the last entry said the numbers were
02:27PM 3 captured from a pen.

02:27PM 4 Q. Yes. So, again, just to describe a pen register for the
02:27PM 5 jury, that's not a full intercept of the contents of a phone
02:27PM 6 conversation, correct?

02:27PM 7 A. It is not.

02:27PM 8 Q. It's sort of like a realtime capturing of what numbers
02:27PM 9 the phone is dialing, correct?

02:27PM 10 A. Dialing or receiving calls -- well, the defendant
02:27PM 11 dialing --

02:27PM 12 Q. Yeah, it's a realtime toll analysis, or toll log,
02:27PM 13 correct?

02:27PM 14 A. Yes, as the calls are happening.

02:27PM 15 Q. And as you told us by looking at that one document of the
02:27PM 16 last entry, the numbers in there could still be captured by
02:27PM 17 pen register, correct?

02:27PM 18 A. Yes.

02:27PM 19 Q. And to your knowledge and your understanding of the
02:27PM 20 investigation, Ron Serio never changed his cell phone number
02:28PM 21 throughout until he was arrested, correct?

02:28PM 22 A. No, I think he had more than one phone when he was
02:28PM 23 arrested.

02:28PM 24 Q. But the main phone number that he's associated with, I
02:28PM 25 had it written down, I think it's the one that starts with 8,

02:28PM 1 he had that number all the way up to his arrest, correct?

02:28PM 2 A. I think so.

02:28PM 3 Q. It's 830-3226?

02:28PM 4 A. I would have to look at some records to know that for
02:28PM 5 sure.

02:28PM 6 Q. But you recall that number coming up quite a bit in the
02:28PM 7 investigation, correct?

02:28PM 8 A. Yes.

02:28PM 9 **MR. MacKAY:** Okay. All right. Now Ms. Champoux, can
02:28PM 10 we take that down?

02:28PM 11 Can we pull up T Serio DWI report? It could be that
02:29PM 12 one, intel report. No, it's not that one. All right.

02:29PM 13 **BY MR. MacKAY:**

02:29PM 14 Q. Do you recall looking at an Amherst police report for DWI
02:29PM 15 arrest for Tom Serio?

02:29PM 16 A. Yes.

02:29PM 17 Q. And that's a standard local police department police
02:29PM 18 report, correct?

02:29PM 19 A. Yes.

02:29PM 20 Q. And you know that those police reports can be obtained by
02:29PM 21 any citizen through a FOIL request, correct?

02:29PM 22 A. Yes, I think so.

02:29PM 23 Q. And -- and in sum and substance, it reports, you read the
02:29PM 24 contents of it to the jury, that he's caught with a few pills
02:30PM 25 in this DWI arrest; do you remember that?

02:30PM 1 A. Yes.

02:30PM 2 Q. Now you also told the jury this DWI arrest appeared to
02:30PM 3 have occurred after Mr. Bongiovanni had closed the Serio
02:30PM 4 file, correct?

02:30PM 5 A. Yes.

02:30PM 6 Q. In your experience, an individual being arrested for a
02:30PM 7 misdemeanor DWI in possession of a couple pills, that's
02:30PM 8 generally not going to be enough information in total to, in
02:30PM 9 your experience, make out a full search warrant for like a
02:30PM 10 house, for example, correct?

02:30PM 11 A. That information alone? No. But it's a starting point
02:30PM 12 that could lead you to that.

02:30PM 13 Q. It could. But, for example, because we don't need to go
02:30PM 14 into the law about it, but in order to get a search warrant
02:30PM 15 for a house, you essentially need it to connect to activity
02:30PM 16 that happens at the house, correct?

02:30PM 17 A. Yes.

02:30PM 18 Q. So an individual found with a couple pills in a car, in
02:31PM 19 your experience, is probably not something, like you said,
02:31PM 20 alone that they're gonna be able to make out a full search
02:31PM 21 warrant to get a house search, correct?

02:31PM 22 A. Again, I think it could be characterized as a starting
02:31PM 23 point. I think if you leave it as a standalone, then your
02:31PM 24 statement is correct.

02:31PM 25 Q. Well, we're talking about starting points. You reviewed

02:31PM 1 all of Exhibit 100A, correct?

02:31PM 2 A. Yes.

02:31PM 3 Q. And, obviously, you reviewed that in the context of

02:31PM 4 making Exhibit A -- 100A.1, correct?

02:31PM 5 A. Yes.

02:31PM 6 Q. What you see in there in total are a number of documents

02:31PM 7 that are important in your experience and investigation when

02:31PM 8 looking into somebody, correct?

02:31PM 9 A. Yes.

02:31PM 10 Q. All of these reflect investigative steps that an agent

02:31PM 11 would take when looking into somebody, correct?

02:31PM 12 A. They're the kind of documents you would accumulate, yes.

02:31PM 13 Q. Right. So within an investigation within the DEA, most

02:31PM 14 of these documents reflect some sort of investigative step

02:32PM 15 taken in a general investigation of somebody, correct?

02:32PM 16 A. Most of them do, yes.

02:32PM 17 Q. Okay.

02:32PM 18 A. They're not all from the same investigation. But --

02:32PM 19 **MR. MacKAY:** All right. You can close that out,

02:32PM 20 Ms. Champoux. All right.

02:32PM 21 **BY MR. MacKAY:**

02:32PM 22 Q. All right. So I want to turn your attention to Anthony

02:32PM 23 Gerace. You were essentially the one who directed the search

02:32PM 24 of his Clarence Center house, correct?

02:32PM 25 A. Yes.

02:32PM 1 Q. And this occurs in January of 2018, correct?

02:32PM 2 A. Yes.

02:32PM 3 Q. I hope you're not coming down with same thing I have.

02:32PM 4 A. No, it might be a little springtime cold, but I think it
02:32PM 5 was just the water.

02:32PM 6 Q. I'm hoping it's the same thing.

02:32PM 7 So you testified that approximately \$103,000 in cash was
02:32PM 8 found; do you remember that?

02:32PM 9 A. How much?

02:32PM 10 Q. About -- I'm ballparking it, but \$103,000 of cash.

02:33PM 11 A. Oh, I'm sorry, I thought you said 150-. So it was about
02:33PM 12 103,000.

02:33PM 13 Q. 103,000.

02:33PM 14 **MR. MacKAY:** And, Ms. Champoux, can we pull up
02:33PM 15 Government Exhibit 72A-55?

02:33PM 16 **BY MR. MacKAY:**

02:33PM 17 Q. And this is what we looked at, I think, on Friday. This
02:33PM 18 is the Super Bowl pool ledger as you know it to be, correct?

02:33PM 19 A. Yes.

02:33PM 20 Q. You understood that to be essentially a listing of
02:33PM 21 individuals in a Super Bowl pool, correct?

02:33PM 22 A. Yes.

02:33PM 23 Q. You don't know when this was produced, correct?

02:33PM 24 A. Only around that Super Bowl.

02:33PM 25 Q. Okay. So you'd agree with me it contains various

1 business names, correct? Like, I'll direct your attention to
2 number 34 on the list.

3 **MR. MacKAY:** Can we blow that one up if we can,
4 Ms. Champoux?

5 **BY MR. MacKAY:**

6 Q. See, it says 34, it says 67 West, paid?

7 A. Yes.

8 Q. Circled?

9 A. I see that.

10 Q. For your time here in Buffalo, do you know 67 West to be
11 a bar on Chippewa Street?

12 A. I can't picture it, but I don't know that it's not there
13 either.

14 **MR. MacKAY:** Okay. Can we blow up number 40,
15 Ms. Champoux?

16 **BY MR. MacKAY:**

17 Q. Same thing. Do you see 40, and it says Wing Kings? It
18 looks like it's in parenthesis, it says fee.

19 A. I see that.

20 Q. Okay. And Wing Kings, do you know that to be a
21 restaurant on Elmwood Avenue in Buffalo?

22 A. I don't know that, no.

23 Q. Okay. Now, number 37, if you look from there, you see
24 Ron Serio, correct?

25 A. I do.

02:34PM 1 Q. And as you know from your investigation, he was arrested
02:34PM 2 in April of 2017, correct?

02:34PM 3 A. Yes.

02:34PM 4 Q. And he's subject to -- he's taken into custody in April
02:35PM 5 of 2017, correct?

02:35PM 6 A. He was.

02:35PM 7 Q. Did you understand him to then go to some various
02:35PM 8 rehab -- drug rehab facilities?

02:35PM 9 A. Yes.

02:35PM 10 Q. And ultimately he is released into the community on some
02:35PM 11 sort of supervision, correct?

02:35PM 12 A. Yes.

02:35PM 13 Q. And did you understand him to actually have conditions
02:35PM 14 that prevented him from gambling in any fashion?

02:35PM 15 A. I didn't know what his conditions were, no.

02:35PM 16 Q. Okay.

02:35PM 17 **MR. MacKAY:** All right. Can we unzoom out, and zoom
02:35PM 18 in on the upper corner of that page, please, Ms. Champoux?

02:35PM 19 Oh, I should have said upper left corner.

02:35PM 20 **BY MR. MacKAY:**

02:35PM 21 Q. Maybe you'll be able to see it without the zoom, but do
02:35PM 22 you see it says \$105,000 there?

02:35PM 23 A. I can see it, yes.

02:35PM 24 Q. Fair to say looking at the context of this that's
02:35PM 25 probably what this -- it reflects what this Super Bowl pool

02:35PM 1 was supposed to have collected?

02:35PM 2 A. Possibly, yes.

02:35PM 3 Q. Okay. And the way Super Bowl pools generally work, as

02:36PM 4 you understand it, is that the operator takes in money, runs

02:36PM 5 the pool, and then a portion of those proceeds are paid out

02:36PM 6 to the members of the pool, correct?

02:36PM 7 A. Well, they're supposed to all be paid out.

02:36PM 8 Q. But in your experience, sometimes the operator will take

02:36PM 9 a cut to run the pool?

02:36PM 10 A. They can, but that violates New York's gambling laws.

02:36PM 11 Q. In your experience, even when it violates the laws, have

02:36PM 12 you seen it happen before?

02:36PM 13 A. I don't have a lot of experience with Super Bowl squares

02:36PM 14 other than knowing they exist, so --

02:36PM 15 Q. Okay.

02:36PM 16 A. -- I don't think I can answer that in my experience.

02:36PM 17 Q. And you don't know how long Anthony Gerace had been

02:36PM 18 operating Super Bowl pools, had you?

02:36PM 19 A. No.

02:36PM 20 **MR. MacKAY:** Okay. Ms. Champoux, can we take that

02:36PM 21 down and go to Government Exhibit 72A-56?

02:36PM 22 **BY MR. MacKAY:**

02:36PM 23 Q. All right. That's the actual square that you recovered,

02:37PM 24 correct?

02:37PM 25 A. Yes.

02:37PM 1 Q. And you can see by the writing on the vertical and
02:37PM 2 horizontal axis, it's the Philly Eagles and New England
02:37PM 3 Patriots; is that fair to say?

02:37PM 4 A. Yes.

02:37PM 5 Q. Now, again, this is recovered in January of 2019,
02:37PM 6 correct?

02:37PM 7 A. Yes.

02:37PM 8 Q. And did you understand that or come to learn that the
02:37PM 9 Philly Eagles and the New England Patriots played in the
02:37PM 10 Super Bowl held in 2018?

02:37PM 11 A. I remember that it was a previous Super Bowl, a year or
02:37PM 12 two previous.

02:37PM 13 Q. So that's what I'm asking. Is this square that you see
02:37PM 14 here in 72A-56, that is not for the Super Bowl that was going
02:37PM 15 to be held in February of 2019, correct?

02:37PM 16 A. Right.

02:37PM 17 Q. Okay. So, at least -- well, almost a year before when
02:37PM 18 the search warrant was executed, correct?

02:37PM 19 A. Yes.

02:37PM 20 Q. And in your review of the square, Ron Serio's name or
02:38PM 21 initials or anything suggesting he's part of the square
02:38PM 22 doesn't appear anywhere on this, correct?

02:38PM 23 A. No, I don't remember seeing that then, and I don't see it
02:38PM 24 now.

02:38PM 25 Q. Okay. Now were you made aware in your context of the

1 investigation handling different aspects of it that Anthony
2 Gerace later made a claim for the money that was seized at
3 his house?

4 A. Yes.

5 Q. Okay. And did you understand that he was claiming it
6 was, in fact, the proceeds of a Super Bowl pool?

7 A. Yes, that's what he claimed.

8 Q. Okay. And in your experience with dealing with federal
9 forfeiture claims, in order for somebody to make a claim,
10 they have to fill out a form, correct? Or submit a claim of
11 some sort?

12 **MR. TRIPI:** Judge, objection. 401 and 403 regarding
13 federal forfeiture procedures and Anthony Gerace's claims. I
14 don't see how that's relevant.

15 **THE COURT:** No, overruled.

16 **BY MR. MacKAY:**

17 Q. Do you understand in sum and substance that somebody has
18 to make a written claim for the money?

19 A. Yes.

20 Q. And that claim is made under oath?

21 A. Yes.

22 Q. And as you understood it, the claim Anthony Gerace made
23 was that the money that was taken came from the Super Bowl
24 pool, correct?

25 A. That's the claim he made, yes.

02:38PM 1 **MR. MacKAY:** Okay. All right. So we can take that
02:38PM 2 down, Ms. Champoux. Thank you.

02:38PM 3 **BY MR. MacKAY:**

02:38PM 4 Q. So I'm going to talk about this investigation regarding
02:38PM 5 Ron Serio.

02:38PM 6 Now you testified on direct that you were present for
02:38PM 7 both February and July 2018 proffers with Ron Serio, right?

02:38PM 8 A. Yes.

02:38PM 9 Q. Now, the -- in sum and substance, the July 2018 proffer
02:38PM 10 is really where the investigation takes off against Joe
02:38PM 11 Bongiovanni based on something that Ron Serio says in that
02:38PM 12 proffer, correct?

02:38PM 13 A. Yes.

02:38PM 14 Q. Prior to that, there was no indication of anything
02:39PM 15 connected to Joseph Bongiovanni, correct?

02:39PM 16 A. Correct.

02:39PM 17 Q. Now, now, in the July 2018 proffer, Special Agent Casullo
02:40PM 18 is present for that, correct?

02:40PM 19 A. He was.

02:40PM 20 Q. He's not present for the February proffer, correct?

02:40PM 21 A. He was not.

02:40PM 22 Q. And if you can recall who again was present for the
02:40PM 23 February proffer?

02:40PM 24 A. DEA Special Agent David Walters and his Special Agent
02:40PM 25 Matthew Infante.

02:40PM 1 Q. Anybody else present?

02:40PM 2 A. And myself.

02:40PM 3 Q. I'm sorry?

02:40PM 4 A. And me. And the Assistant United States Attorney.

02:40PM 5 Q. Who was who at that time?

02:40PM 6 A. That was Paul Parisi in February.

02:40PM 7 Q. Okay. Now you get to the July proffer, who's present for

02:40PM 8 that proffer?

02:40PM 9 A. Myself, Special Agent Casullo, Special Agent Greg Mango

02:40PM 10 from his, FBI TFO Mike Maiola, and the AUSAs.

02:40PM 11 Q. And who were the AUSAs?

02:40PM 12 A. Brendan Cullinane and Mr. Tripi.

02:40PM 13 Q. Okay. So Paul Parisi is no longer there as an AUSA,

02:41PM 14 correct?

02:41PM 15 A. Well, he was in still in the office as an AUSA, but he

02:41PM 16 wasn't in that --

02:41PM 17 Q. He was not at the proffer, that's what I'm asking.

02:41PM 18 A. Yes.

02:41PM 19 Q. Now I think you told us on direct that Greg Mango was

02:41PM 20 present, and his presence had to do something with the fact

02:41PM 21 that he had just completed the Kingsmen trial?

02:41PM 22 A. Yes.

02:41PM 23 Q. Okay. And, again, he was not present for the February

02:41PM 24 proffer, correct?

02:41PM 25 A. He was not.

02:41PM 1 Q. And we don't have to go into all the details, but the
02:41PM 2 Kingsmen trial and that investigation had some connection to
02:41PM 3 Organized Crime, correct?

02:41PM 4 A. I don't know.

02:41PM 5 Q. Okay.

02:41PM 6 A. I mean, Organized Crime in the sense that if you want to
02:41PM 7 call the Kingsmen Organized Crime?

02:41PM 8 Q. Well, did you understand it to include some link between
02:41PM 9 bikers and Pharaoh's Gentlemen's Club?

02:41PM 10 A. I understand that -- I understood that there was some
02:41PM 11 connection to Pharaoh's Gentlemen's Club.

02:41PM 12 Q. Okay. Now when you go into a proffer, that's something
02:41PM 13 you don't head into blind, correct?

02:41PM 14 A. Correct.

02:41PM 15 Q. I mean, you talk with the individuals who are going to be
02:41PM 16 present about what subjects are going to be covered, correct?

02:42PM 17 A. Yes, sir.

02:42PM 18 Q. And what questions are going to be asked, correct?

02:42PM 19 A. Yes.

02:42PM 20 Q. Now at that point in time, you're in DEA group D-58,
02:42PM 21 right?

02:42PM 22 A. Yes.

02:42PM 23 Q. That is the task force group, correct?

02:42PM 24 A. Yes.

02:42PM 25 Q. And Joe Bongiovanni's in D-57, correct?

02:42PM 1 A. Yes.

02:42PM 2 Q. You understood that at least at some point in time

02:42PM 3 between February 2018 and July 2018, Special Agent Casullo

02:42PM 4 was moved into D-58?

02:42PM 5 A. Yes.

02:42PM 6 Q. And you understood that that was not necessarily a move

02:42PM 7 by Agent Casullo's choice, correct?

02:42PM 8 A. No, I didn't know that.

02:42PM 9 Q. Okay. Did you understand that the move was prompted in

02:42PM 10 any way by tensions in the DEA office?

02:42PM 11 A. No.

02:42PM 12 Q. Okay. Did you have any indication on why Agent Casullo

02:42PM 13 was moved over to D-58?

02:43PM 14 A. No.

02:43PM 15 Q. Okay. But once -- did you have any indication on whether

02:43PM 16 there was any direction for him to work on certain projects

02:43PM 17 over in D-58 or not? Do you understand what I'm asking?

02:43PM 18 A. No.

02:43PM 19 Q. When he comes over to D-58, did you know if he had to

02:43PM 20 change work on any projects?

02:43PM 21 A. No.

02:43PM 22 Q. Okay. Did he take -- I guess what I'm saying is did you

02:43PM 23 see him pick up new investigations over in D-58 once he's

02:43PM 24 there?

02:43PM 25 A. I don't know if he brought cases with him or not.

02:43PM 1 Q. That was actually a better way of asking what I was
02:43PM 2 looking for. Did he bring any of his D-57 cases over to
02:43PM 3 D-58?

02:43PM 4 A. I don't know.

02:43PM 5 Q. Okay. But once he comes over to D-58, you do begin to
02:43PM 6 work with him in some capacity, correct?

02:43PM 7 A. Yes.

02:43PM 8 Q. I mean, obviously, you both wind up in this July 2018
02:43PM 9 proffer together, correct?

02:43PM 10 A. We did.

02:43PM 11 Q. And fair to assume that that meant until the Joe
02:43PM 12 Bongiovanni revelation, you were -- you and Agent Casullo
02:43PM 13 were going to be working this Ron Serio case together?

02:44PM 14 A. Well, I mean, I don't know if I would call it the Ron
02:44PM 15 Serio case, but we were trying to see if we could make
02:44PM 16 something more out of the Ron Serio case that had already
02:44PM 17 hand.

02:44PM 18 Q. All right. But you and Agent Casullo, I guess what I'm
02:44PM 19 asking, is were you going to be teaming up on that?

02:44PM 20 A. Yes.

02:44PM 21 Q. Okay. Now in February of 2018, there is no Italian
02:44PM 22 Organized Crime focus in the proffer, correct?

02:44PM 23 A. Correct.

02:44PM 24 Q. But by July of 2018, there is a focus, correct?

02:44PM 25 A. Yes.

02:44PM 1 Q. There's an intent to ask Mr. Serio some questions about
02:44PM 2 IOC, correct?

02:44PM 3 A. Yes.

02:44PM 4 Q. You went in -- you and the other agents went into that
02:44PM 5 proffer with the intent of asking him questions about that
02:44PM 6 subject, correct?

02:44PM 7 A. Yes.

02:44PM 8 Q. You wanted some -- you wanted him to give some answers on
02:44PM 9 that subject, correct?

02:44PM 10 A. Yes.

02:44PM 11 Q. So what prompted between February and July of 2018, the
02:44PM 12 move from not being about IOC to being about IOC?

02:45PM 13 A. Not just about IOC, but I'm trying to remember how I
02:45PM 14 became aware. But I began to learn more things specifically
02:45PM 15 about Peter and Anthony Gerace and their family and
02:45PM 16 understanding some more of the significance to that
02:45PM 17 relationship.

02:45PM 18 Q. Okay. So I want to drill down on that a little bit.

02:45PM 19 The way I'm hearing the words come out, it kind of sounds
02:45PM 20 like you were the one who made the decision to look into that
02:45PM 21 subject?

02:45PM 22 A. I don't know that it was me alone, no. I don't recall
02:45PM 23 that.

02:45PM 24 Q. Do you recall whether, for example, Agent Casullo brought
02:45PM 25 you any information that prompted this new subject to be

02:45PM 1 looked into?

02:45PM 2 A. No, I don't.

02:45PM 3 Q. Okay. Do you recall if there was any direction from the

02:45PM 4 U.S. Attorney's Office to focus on that subject?

02:45PM 5 A. There was.

02:45PM 6 Q. What sort of direction?

02:45PM 7 A. Just that we wanted to focus more on the Buffalo

02:45PM 8 distribution network than had been focused on in the previous

02:46PM 9 proffers.

02:46PM 10 Q. Okay. And in that direction being given, was there any

02:46PM 11 indication of why that was?

02:46PM 12 A. Because of the intersection of the Outlaws motorcycle

02:46PM 13 gang and Pharaoh's and Peter Gerace.

02:46PM 14 Q. Okay. And then how was the link made that Ronald Serio

02:46PM 15 would have any information to provide on this subject?

02:46PM 16 A. I don't recall.

02:46PM 17 Q. Do you recall Agent Casullo telling you anything about

02:46PM 18 him having reviewed Mr. Bongiovanni's Serio file?

02:46PM 19 A. No.

02:46PM 20 Q. Okay. And did Agent Casullo make you aware prior to that

02:46PM 21 July 2018 proffer of any of his connection to -- or his

02:46PM 22 relationship to an individual named Phil Domiano?

02:47PM 23 A. I don't know if it was before or after that, but I'm

02:47PM 24 aware of that relationship.

02:47PM 25 Q. Okay. Are you aware both of the family relationship as

1 well as the relationship Mr. Domiano to Pharaoh's Gentlemen's
2 Club?

3 A. Yes.

4 Q. Okay. Do you recall if that information, again, all of
5 that information, was brought to you before you headed into
6 this July 2018 proffer?

7 A. No, I think that came after.

8 Q. Okay. Now, so after this event, after this proffer, it's
9 determined at some point that Agent Casullo is going to be
10 deemed a fact witness in the investigation, correct?

11 A. A combination of that. And then it's probably -- you
12 can't have -- DEA agents don't investigate DEA agents, or
13 potential wrongdoing by DEA agents.

14 Q. But I think you told us on direct, and I don't want to
15 misquote you, but he becomes a fact witness in relation to
16 the race-related comments, correct?

17 A. Yes. I was trying to say there was a combination of
18 those two things.

19 Q. Okay. But when the decision is made to sort of wall him
20 off and make him a fact witness, that really comes from the
21 race-related allegations, correct?

22 A. No. I think it was a combination of the two things.

23 Q. Okay. And just to be clear, a fact witness -- just to
24 remind the jury -- is somebody who might be eventually called
25 to testify in a proceeding about what they saw rather than

02:48PM 1 just what they investigated, correct?

02:48PM 2 A. Yes.

02:48PM 3 Q. Okay. And once somebody becomes a fact witness, it's

02:48PM 4 important to remove them from the investigation, correct?

02:48PM 5 A. Yes.

02:48PM 6 Q. Because that -- you don't want what they saw to shape how

02:48PM 7 they investigate the case, correct?

02:48PM 8 A. Yes.

02:48PM 9 Q. Okay. Another subject you covered on Friday -- I

02:49PM 10 apologize here --

02:49PM 11 **MR. MacKAY:** Ms. Champoux, can we pull up Government

02:49PM 12 Exhibit 310D in evidence?

02:49PM 13 **BY MR. MacKAY:**

02:49PM 14 Q. -- were these text messages between Peter Gerace and

02:49PM 15 Mr. Bongiovanni; do you remember that?

02:49PM 16 A. I do.

02:49PM 17 **MR. MacKAY:** Okay. Ms. Champoux, can we go to page

02:49PM 18 76, please?

02:49PM 19 **BY MR. MacKAY:**

02:49PM 20 Q. Can you see that clear enough? Or do you need to blow

02:49PM 21 them up a little bit?

02:49PM 22 A. No, I'm able to read everything.

02:49PM 23 Q. Okay. So we talked quite a bit, or you talked quite a

02:49PM 24 bit on Friday, about these text messages. And then you

02:49PM 25 became aware of Mr. Bongiovanni sending a memo to his RAC on

1 December 10th, 2018; do you remember that?

2 A. I think that's the date, yeah.

3 Q. Okay. And then I think you pointed out for the jury

4 after he sends that text message -- well, withdrawn.

5 The -- in terms of when the memo comes out, the last text

6 message you recall that would have -- that Mr. Bongiovanni

7 would have received before the memo was this text message

8 second from the bottom where it says you mean 36 years,

9 correct?

10 A. Yes.

11 Q. And then any text message after that point in time was

12 after Mr. Bongiovanni sent the memo; do you remember that?

13 A. Yes.

14 **MR. MacKAY:** Okay. So, Ms. Champoux, I hate to do

15 this to you, but can we switch to Government Exhibit 99,

16 please?

17 **THE COURT:** In evidence?

18 **MR. MacKAY:** In evidence, yes.

19 **BY MR. MacKAY:**

20 Q. Okay. And then you were asked some questions about

21 Mr. Tripi about a further memo that Mr. Bongiovanni sent on

22 January 28th of 2019; do you see that here?

23 A. I do.

24 Q. Okay. And so that's the memo that happens after the

25 December 10th, 2018 memo, correct?

02:50PM 1 A. Yes.

02:50PM 2 Q. But I direct your attention to the subject line; do you
02:50PM 3 see that?

02:50PM 4 A. Yes.

02:51PM 5 Q. And subject line reads: Communication with Peter Gerace
02:51PM 6 by Special Agent Anthony Casullo and Phil Domiano, correct?

02:51PM 7 A. I see that.

02:51PM 8 Q. So the subject of this memo line, unlike the one on
02:51PM 9 December 10th of 2018, is not about communication that Joe
02:51PM 10 Bongiovanni is receiving from Peter Gerace, correct?

02:51PM 11 A. No, it's not.

02:51PM 12 Q. Okay. So, given that title, any further -- given the
02:51PM 13 title you see in Government Exhibit 99, any text messages
02:51PM 14 received after December 10th, 2018, would not be relevant to
02:51PM 15 this memo title, correct?

02:51PM 16 A. No, not necessarily to this memo title. But I think the
02:51PM 17 earlier memo said -- had language like have and will always
02:51PM 18 report all communications. So --

02:51PM 19 Q. Okay. But this memo, you understood to be the third memo
02:51PM 20 he sent, and final memo he sent, correct?

02:51PM 21 A. Yes.

02:51PM 22 Q. Okay. And in sum and substance, it's not about his
02:51PM 23 contact with Peter Gerace, correct?

02:51PM 24 A. It is not.

02:52PM 25 **MR. MacKAY:** Okay. All right, Ms. Champoux, can we

1 go back to 310D, page 76, in evidence.

2 All right. Can we blow up the last -- is that a half
3 text message at the bottom, the picture?

4 **BY MR. MacKAY:**

5 Q. All right. So that's the photo that you recovered from
6 Mr. Gerace's phone, correct?

7 A. Yes.

8 Q. And we've seen it, and you've talked to us about it in
9 the form of Government Exhibit 127, that's the one where
10 Ms. Hunt had circled some figures in it, correct?

11 A. Yes.

12 Q. Okay. This one, fair to say, actually looks a little bit
13 clearer as a shot than 127 does? It's not as grainy?

14 A. I don't know.

15 Q. Okay. All right. But this one, fair to say this one
16 doesn't have the circles on it, correct?

17 A. This one does not.

18 Q. Because you printed it out in some capacity, showed it to
19 Ms. Hunt, and then she circles who she understood -- or, who
20 she remembered doing cocaine with at a cottage, correct?

21 A. Yes.

22 Q. Okay. Now, at that time when you met with Ms. Hunt, you
23 understood that she had had some significant struggles with
24 substances, correct?

25 A. I feel like -- I feel like that came later. I don't know

1 about before.

2 Q. Okay. But you knew, you know, Ms. Hunt at some point in
3 time that there were drug issues surrounding her, correct?

4 A. Yes.

5 Q. You knew her to be a drug user, correct?

6 A. Yes.

7 Q. Now, she tells you some pretty specific things when she
8 circles these two individuals in this photo, correct?

9 A. Yes.

10 Q. She circles who you understand to be Tommy Doctor,
11 correct?

12 A. Yes.

13 Q. And she circles who you understand to be Joe Bongiovanni,
14 correct?

15 A. Yes.

16 Q. And she tells you that they want upstairs at the cottage
17 and did cocaine upstairs, correct?

18 A. Yes.

19 Q. What, if anything, did you do to verify that claim she
20 made?

21 Let me withdraw the question and ask first. That's a
22 pretty important revelation she made in the investigation,
23 correct?

24 A. It was.

25 Q. I mean, because she's saying here's a DEA agent who's

02:54PM 1 under investigation, and I witnessed him do cocaine, correct?

02:54PM 2 A. Yes.

02:54PM 3 Q. That's what you understood her to be saying, correct?

02:54PM 4 A. Yes.

02:54PM 5 Q. So following her revelation and her circling the photos,

02:54PM 6 what, if anything, did you do to confirm her story?

02:54PM 7 A. We continued to investigate.

02:54PM 8 Q. Okay. All right. I'm going to circle the gentleman in

02:54PM 9 the second row, second from the right; do you see him?

02:54PM 10 A. I do.

02:54PM 11 Q. Do you understand that to be Chris Floreale, an attorney?

02:55PM 12 A. No.

02:55PM 13 Q. Okay. Did you attempt to identify and talk to that

02:55PM 14 gentleman?

02:55PM 15 A. No.

02:55PM 16 Q. Now I circle the gentleman in the white, six individuals

02:55PM 17 over from the left. Do you understand that to be Pat Jerge?

02:55PM 18 A. No.

02:55PM 19 Q. Did you attempt to identify and talk to him?

02:55PM 20 A. No.

02:55PM 21 Q. Did you know that both Pat Jerge and Chris Floreale are

02:55PM 22 friends with DEA Group Supervisor Shane Nastoff?

02:55PM 23 A. No.

02:55PM 24 Q. Okay. Did you attempt to locate Tommy Doctor's cottage?

02:55PM 25 A. No.

02:55PM 1 Q. Did you attempt to do any sort of search for where the
02:55PM 2 cottage and Mr. Doctor's name could be located?

02:55PM 3 A. No.

02:55PM 4 Q. Okay. So you never came up with the address of 928 Post
02:55PM 5 Road in Irving, New York, did you?

02:55PM 6 A. No.

02:55PM 7 Q. Okay. So you never looked at the cottage in Google
02:56PM 8 street view, did you?

02:56PM 9 A. I don't think so, no.

02:56PM 10 Q. Okay. And you never pulled any of the old photos on
02:56PM 11 Google street view, did you?

02:56PM 12 A. No.

02:56PM 13 Q. Okay. So as you sit here today, you don't know that in
02:56PM 14 2018 the cottage was actually only one story, correct?

02:56PM 15 A. No.

02:56PM 16 Q. And you didn't talk to the building inspector to find out
02:56PM 17 that an addition putting in a second floor to the cottage
02:56PM 18 wasn't granted a certificate of occupancy until 2022, did
02:56PM 19 you?

02:56PM 20 A. No.

02:56PM 21 **MR. MacKAY:** Okay. We can take that zoom portion
02:56PM 22 down, Ms. Champoux. Thank you. All right.

02:56PM 23 So, Ms. Champoux, can we go all the way -- can we go
02:56PM 24 to the first page of Government Exhibit 310D.

25

2 Q. I think you told us on direct, and you can see from here,
3 this begins -- this text message string begins on January 6th
4 of 2015, correct?

6 Q. And it starts with a text from Peter to Joe saying we
7 need to get together soon, correct?

9 Q. Fair interpretation of that is that they haven't seen
0 each other in a while? I think based on what you read?

12	Q. All right.
----	---------------

15 BY MR. MacKAY:

20	A. Yes.
----	---------

23	A. Yes.
----	---------

24 | Q. All right.

25 **MR. MacKAY:** Ms. Champoux, can we go to page 5?

02:58PM

1

BY MR. MacKAY:

02:58PM

2

Q. Top text message, you can see, appears to be Joe inviting

02:58PM

3

Peter Gerace and his wife, Katrina, to a Saint Patrick's Day

02:58PM

4

party, correct?

02:58PM

5

A. Yes.

02:58PM

6

Q. But working through the rest of the text messages here,

02:58PM

7

that appears to fall apart because Mr. Gerace takes ill,

02:58PM

8

correct?

02:58PM

9

A. Mr. Gerace or his son. Oh, yeah, he says -- now I got

02:58PM

10

it. So, yes, they were both sick.

02:58PM

11

MR. MacKAY: All right. Ms. Champoux, can we advance

02:58PM

12

to page 16?

02:58PM

13

BY MR. MacKAY:

02:58PM

14

Q. Okay. Now, I'll try to take you through --

02:59PM

15

MR. MacKAY: Let's go back to page 12, it's easier to

02:59PM

16

start there.

02:59PM

17

BY MR. MacKAY:

02:59PM

18

Q. All right. Do you understand this to be Mr. Bongiovanni

02:59PM

19

inviting Peter Gerace to meet up with him at the Boss

02:59PM

20

restaurant around July 15th of 2015?

02:59PM

21

A. Yes.

02:59PM

22

Q. Okay.

02:59PM

23

MR. MacKAY: Can we go to the next page, Ms. Champoux?

02:59PM

24

BY MR. MacKAY:

02:59PM

25

Q. Okay. It looks like in these text messages they're still

02:59PM 1 arranging plans, correct?

02:59PM 2 A. Yes.

02:59PM 3 Q. Mr. Gerace asks what's the plan, correct?

02:59PM 4 A. Yes.

02:59PM 5 Q. And he asks him what Mr. Bongiovanni's home address is,

02:59PM 6 correct?

02:59PM 7 A. Yes.

02:59PM 8 Q. And then Mr. Bongiovanni provides that at the bottom,

02:59PM 9 correct?

02:59PM 10 A. He does.

02:59PM 11 Q. And that's the address you know Mr. Bongiovanni to have,

02:59PM 12 correct?

02:59PM 13 A. It is.

02:59PM 14 **MR. MacKAY:** If we can go to the next page,

03:00PM 15 Ms. Champoux?

03:00PM 16 **BY MR. MacKAY:**

03:00PM 17 Q. It looks like there's some further plans to try to meet

03:00PM 18 up for the party, correct, at the beginning?

03:00PM 19 A. Yes.

03:00PM 20 Q. But then Mr. Gerace texts and says I just woke up. See

03:00PM 21 that in the middle?

03:00PM 22 A. Yes.

03:00PM 23 Q. And then appears to be -- they're now talking about plans

03:00PM 24 for dinner that same night, correct?

03:00PM 25 A. I think that was the original plan.

03:00PM 1 Q. Right.

03:00PM 2 A. He just missed the meet-up at the house.

03:00PM 3 Q. Do you understand that to mean he missed going to the
03:00PM 4 house, and he's now going to meet him for dinner?

03:00PM 5 A. Yes.

03:00PM 6 **MR. MacKAY:** Okay. Can we advance to the next page,
03:00PM 7 Ms. Champoux?

03:00PM 8 **BY MR. MacKAY:**

03:00PM 9 Q. And do you understand that -- these text messages on here
03:00PM 10 to refer to Mr. Gerace actually meeting up with Joe at this
03:01PM 11 restaurant?

03:01PM 12 A. Yes.

03:01PM 13 Q. And from the whole context of this text message string,
03:01PM 14 do you recall he references the festival?

03:01PM 15 A. Yes.

03:01PM 16 Q. Just so the jury's aware, this is around the middle of
03:01PM 17 July, this is the Italian Festival?

03:01PM 18 A. Yes.

03:01PM 19 Q. Do you recall, and it doesn't take place there now, but
03:01PM 20 it used to take place on Hertel Avenue, correct?

03:01PM 21 A. I went one time when it was on Hertel Avenue, yes.

03:01PM 22 Q. And Boss restaurant used to be located on Starin and
03:01PM 23 Hertel, correct?

03:01PM 24 A. I think that's the closest cross street, yes.

03:01PM 25 Q. Kind of by the new Deep South Taco?

03:01PM 1 A. Yes.

03:01PM 2 Q. So it's kind of at the far end down the --

03:01PM 3 A. The Main Street end.

03:01PM 4 Q. -- yep, down the street from where the Italian Festival
03:01PM 5 would be, correct?

03:01PM 6 A. Yes.

03:01PM 7 **MR. MacKAY:** All right. Can we go to page 17,
03:01PM 8 please, Ms. Champoux?

03:01PM 9 **BY MR. MacKAY:**

03:01PM 10 Q. And do you see there's a reference to Stockman's
03:02PM 11 tavern --

03:02PM 12 A. Yes.

03:02PM 13 Q. -- by Mr. Gerace?

03:02PM 14 And as you read these text messages, do you understand
03:02PM 15 there -- can you tell whether they met up or not from this
03:02PM 16 string of text messages?

03:02PM 17 A. At which place?

03:02PM 18 Q. Anywhere?

03:02PM 19 A. I mean, so the last one on July 18th is Peter Gerace
03:02PM 20 saying I'm on my way.

03:02PM 21 Q. So you understood that was the meaning for Boss, correct?

03:02PM 22 A. Yes.

03:02PM 23 Q. Then the next one down is on the 21st where he's writing
03:02PM 24 Stockman's Tavern correct?

03:02PM 25 A. Right.

03:02PM 1 Q. It sounds like it's an invitation for Joe to meet him at
03:02PM 2 Stockman's Tavern based on the next text message that says
03:02PM 3 let's do it, call me?

03:02PM 4 A. Yes, I think so.

03:02PM 5 Q. But based on the remainder of texts from that page,
03:03PM 6 nothing to indicate they actually ever got together, correct?

03:03PM 7 A. Nothing that indicates that they did or that they didn't.

03:03PM 8 Q. Okay.

03:03PM 9 A. I mean, one way to interpret the lack of additional text
03:03PM 10 messages is that they did.

03:03PM 11 Q. Okay. All right. So in sum and substance, we've just
03:03PM 12 gone through is 2015 to this point in time, and it appears
03:03PM 13 there's one meeting, maybe two, about Stockman's Tavern,
03:03PM 14 correct?

03:03PM 15 A. Yes.

03:03PM 16 Q. We've got Boss, and we've got Stockman's Tavern. But
03:03PM 17 it's not clear whether Stockman's Tavern ever happened,
03:03PM 18 correct?

03:03PM 19 A. Correct.

03:03PM 20 **MR. MacKAY:** Okay. Now can we go to -- can we scroll
03:03PM 21 down in some fashion, we're going to end up at page 24.

03:03PM 22 **BY MR. MacKAY:**

03:03PM 23 Q. What I want to direct your attention to while you're
03:04PM 24 looking at these, Agent Ryan, is, is there's no meet-ups
03:04PM 25 between that date and the date of May 29th, 2016, are there?

03:04PM 1 A. I'd have to review the content in between.

03:04PM 2 Q. We'll allow you to do that.

03:04PM 3 **MR. MacKAY:** You can go a little faster, please,
03:04PM 4 Ms. Champoux.

03:05PM 5 **BY MR. MacKAY:**

03:05PM 6 Q. Are we on page 24? I can't see what page we're on?

03:05PM 7 A. Okay.

03:05PM 8 Q. Okay. It appears on that text in the middle, in gray
03:05PM 9 one, Mr. Bongiovanni says I'm glad you're home safe. He
03:05PM 10 mistypes, it's H-9-M-E. Do you see that?

03:05PM 11 A. Yes.

03:05PM 12 Q. Okay. So that appears to reference some sort of meet-up
03:05PM 13 that they had around that date, correct?

03:05PM 14 A. Yes.

03:05PM 15 Q. But from your review of the text messages we went
03:05PM 16 through, there was no text message that indicated an
03:05PM 17 in-person meeting between July -- late July of '15, and now
03:05PM 18 late May of '16, correct?

03:06PM 19 A. Correct.

03:06PM 20 **MR. MacKAY:** All right. Can we scroll down to -- in
03:06PM 21 the same fashion, to page 27.

03:06PM 22 **BY MR. MacKAY:**

03:06PM 23 Q. Looks like he's showing him some fishing pictures in
03:06PM 24 here. All right. So starting at page -- if you go to the
03:06PM 25 bottom of page 27, you see a text to Joe, it says yes, Bro,

03:06PM 1 it's just me. My wife works tonight.

03:06PM 2 A. I do.

03:06PM 3 **MR. MacKAY:** Can we advance that to the next page?

03:06PM 4 **BY MR. MacKAY:**

03:06PM 5 Q. Okay. Mr. Gerace says bring Tommy?

03:07PM 6 A. I see that.

03:07PM 7 Q. Okay. Don't know whether we're talking about Tom Napoli

03:07PM 8 or Tom Doctor, correct?

03:07PM 9 A. Correct.

03:07PM 10 Q. Do you see Mr. Bongiovanni says on my way. What are

03:07PM 11 people wearing. Suit, question mark?

03:07PM 12 A. I see that.

03:07PM 13 **MR. MacKAY:** Can we go to the next page,

03:07PM 14 Ms. Champoux?

03:07PM 15 **BY MR. MacKAY:**

03:07PM 16 Q. And you see at the top of that page, it was a great time

03:07PM 17 last night. It was great to see your parents. Thanks again

03:07PM 18 for the invitation. Do you see that one?

03:07PM 19 A. I do.

03:07PM 20 Q. Okay. Did you understand this to be a party for

03:07PM 21 Mr. Gerace's parents, based on what you see here?

03:07PM 22 A. Yep, it seems like it, yes.

03:07PM 23 Q. Okay. Okay. Now, we can go through the text messages,

03:07PM 24 you can see them. But fair to say there's no more contact,

03:08PM 25 no more -- there's nothing in text messages for the remainder

1 of 2016 that shows any contact?

2 A. I'm --

3 Q. We can scroll through.

4 A. Yep.

5 **MR. MacKAY:** Ms. Champoux, I think we're going to end
6 on page 51. Okay. Can we just pause there for a sec,
7 Ms. Champoux?

8 **BY MR. MacKAY:**

9 Q. As we scroll through 2016, no more text messages to
10 suggest any in-person contact, correct?

11 A. Some proposed stuff, but nothing that seems to come to
12 fruition.

13 Q. Looks like they tried to get together, it didn't happen,
14 correct?

15 A. Yes.

16 **MR. MacKAY:** Okay. Let's keep going through 2017, up
17 to page 51, please.

18 **BY MR. MacKAY:**

19 Q. Okay. So we're up to February of 2018. So nothing in
20 2017 again that indicates that the met up, correct?

21 A. Not in the text messages, no.

22 Q. Peter appears to be suggesting -- well, they both appear
23 to be suggesting to try to get together, and nothing happens,
24 correct?

25 A. Yes.

03:13PM 1 Q. And in February 22nd, 2018, Peter's texting Joe, still
03:13PM 2 waiting to grab lunch together, LOL, correct?

03:13PM 3 A. Yes.

03:13PM 4 Q. So based on what we saw in the text messages here, they
03:13PM 5 haven't -- they haven't seen each other in person since May
03:13PM 6 of 2016, correct?

03:13PM 7 A. I mean --

03:13PM 8 **MR. TRIPI:** Objection.

03:13PM 9 **THE WITNESS:** -- I don't know if that's true.

03:13PM 10 **MR. MacKAY:** Based on what you saw in the texts.

03:13PM 11 **MR. TRIPI:** Okay, withdrawn.

03:13PM 12 **THE WITNESS:** There's no confirmation that they've
03:13PM 13 seen each other in the texts, no.

03:13PM 14 **MR. MacKAY:** All right. Can we scroll now to page
03:13PM 15 66, please, Ms. Champoux?

03:15PM 16 **BY MR. MacKAY:**

03:15PM 17 Q. Is this page 66. Saw a lot of text messages, looks like
03:15PM 18 they were going back and forth on April 21st, 2018?

03:15PM 19 A. Yes.

03:15PM 20 Q. At the bottom there on April 24th, 2018, Peter Gerace is
03:15PM 21 saying, is texting, am I ever gonna see you again, correct?

03:15PM 22 A. Yes.

03:15PM 23 Q. Now, you know after that date, they appear to have seen
03:15PM 24 each other at Tommy Doctor's cottage on June 30th, 2018,
03:15PM 25 correct?

03:15PM 1 A. Yes.

03:15PM 2 Q. And then no contact after that that you know of, correct?

03:15PM 3 A. There's the reference to the meeting at Canal Side or

03:16PM 4 something --

03:16PM 5 Q. Okay. But it --

03:16PM 6 A. -- it was reference to a meeting that had happened

03:16PM 7 before.

03:16PM 8 Q. Okay. Now, fair to say you reviewed these text messages,

03:16PM 9 most of the time it's Peter Gerace attempting to initiate

03:16PM 10 contact?

03:16PM 11 A. I would say there's some like that.

03:16PM 12 Q. They're going back and forth though, fair to say?

03:16PM 13 A. I think they're going back and forth, yes.

03:16PM 14 Q. But a lot of times, a lot of the contents Mr. Gerace is

03:16PM 15 making Mr. Bongiovanni aware, for example, of events that are

03:16PM 16 going on connected to Pharaoh's, correct?

03:16PM 17 A. There's some of that. I mean the collectibles, the golf

03:16PM 18 tournaments.

03:16PM 19 Q. Invitations to events associated with Pharaoh's, correct?

03:16PM 20 A. Some of them, yes.

03:16PM 21 Q. Okay. And you see Mr. Gerace also expresses a lot of

03:16PM 22 frustration in these text messages that they're not meeting

03:16PM 23 up, correct?

03:16PM 24 **MR. TRIPI:** Objection as to -- that's argument, it

03:16PM 25 expresses a lot of frustrations.

2 **THE WITNESS:** He does seem to send text messages like
3 that, yes.

5 Q. Like, I mean, from the content you can read here, they
6 appear to suggest that he wants to meet up more than they
7 actually do appear to be meeting up, correct?

9 Q. Okay. Now what you don't see in any of the text messages
0 are any references to meeting up at Pharaoh's Gentlemen's
1 Club, correct?

13 Q. Other than -- other than one incident regarding a golf
14 tournament, correct?

15 A. There's at least one other one that says I'll come see
16 you at Pharaoh's, that we just scrolled past.

17 Q. Right. But other than that text message, there's no
18 context from the messages whether they actually ever met up,
19 correct?

21 Q. From what you can see in the text messages, that's what
22 I'm asking from what you can see?

23 A. I'm not sure what you would see after that in the text
24 message that would confirm -- I would say that the absence of
25 a message that says where are you, or something to that

03:18PM 1 effect, can serve as a confirmation that the proposed meeting
03:18PM 2 happened.

03:18PM 3 Q. Okay. Well, let me ask it to you this way. You don't
03:18PM 4 see a lot of text messages when one of them is saying hey,
03:18PM 5 good to have seen you, correct?

03:18PM 6 A. The few we talked about.

03:18PM 7 Q. Other than the ones that are tied to what appear to be
03:18PM 8 concrete plans materializing, you don't see other text
03:18PM 9 messages that would suggest there was a meeting that was not
03:18PM 10 set up through text, correct? Does that make sense?

03:18PM 11 A. Well, no. I don't think that does make sense.

03:18PM 12 Q. Okay. So, as you reviewed these text messages, you see
03:18PM 13 that they're making plans to meet up through the text
03:18PM 14 messages, correct?

03:18PM 15 A. I do.

03:18PM 16 Q. Okay. And a couple that we've highlighted a few times
03:18PM 17 here where they did meet up, correct?

03:18PM 18 A. Yes.

03:18PM 19 Q. And I should say it's very clear from the context of the
03:19PM 20 context of the messages that they did, in fact, meet up,
03:19PM 21 correct?

03:19PM 22 A. Yes.

03:19PM 23 Q. But what you don't see are a lot of text messages that
03:19PM 24 suggest there was a meet-up where there's no other discussion
03:19PM 25 about any sort of plans; do you understand what I'm saying?

03:19PM 1 A. I do. I'm stuck on the -- the past tense conversation
03:19PM 2 that they have via text about meeting up and having to help
03:19PM 3 Lindsay to the car.

03:19PM 4 Q. Okay.

03:19PM 5 A. And then there was at least one other message that I read
03:19PM 6 similarly to that.

03:19PM 7 Q. But my question is, from the beginning of January 2015,
03:19PM 8 to the end of 2018, you don't see a lot of references in
03:19PM 9 these text messages suggesting that there's a meet-up that's
03:19PM 10 not documented in the text messages, do you?

03:19PM 11 A. I don't know how I can answer that. I mean, I -- there's
03:19PM 12 the references to the meeting that they had, they're arranged
03:19PM 13 by text.

03:19PM 14 There's one or two references to meetings that aren't
03:20PM 15 arranged by text.

03:20PM 16 And then I would --

03:20PM 17 Q. One could --

03:20PM 18 A. -- be taking a wild guess of any --

03:20PM 19 Q. One or two references though, correct?

03:20PM 20 A. Yes, but they're there.

03:20PM 21 Q. The text message string is not replete with messages of,
03:20PM 22 hey, stopping at the club, are you gonna be there, correct?

03:20PM 23 A. That's correct.

03:20PM 24 Q. Hey, was good to see you at the club the other day,
03:20PM 25 correct?

03:20PM 1 A. That's correct.

03:20PM 2 Q. Hey, it was good to see you at my house the other day,

03:20PM 3 correct?

03:20PM 4 A. Correct.

03:20PM 5 Q. So, from what you can see from these text messages,

03:20PM 6 there's nothing to suggest in the messages that

03:20PM 7 Mr. Bongiovanni is going to Pharaoh's Gentlemen's Club

03:20PM 8 frequently, correct?

03:20PM 9 A. Not frequently, no.

03:20PM 10 Q. All right. So as we read through all the messages here,

03:21PM 11 probably going to get the number wrong, but it appears

03:21PM 12 there's about three meetings in 2015 all around July,

03:21PM 13 correct, something to do with the golf tournament, correct?

03:21PM 14 A. The golf tournament --

03:21PM 15 Q. Boss?

03:21PM 16 A. -- birthday, and Stockman's.

03:21PM 17 Q. And we're not quite sure whether there actually was a

03:21PM 18 meeting at Stockman's, correct?

03:21PM 19 A. Correct.

03:21PM 20 Q. Okay. There's no messages that you see in there

03:21PM 21 referencing Joe or Peter's spouses meeting up, correct?

03:21PM 22 A. No. I don't see anything about that.

03:21PM 23 Q. No messages like, hey, Katrina said it was good to see

03:21PM 24 Lindsay the other night, correct?

03:21PM 25 A. Correct.

03:21PM 1 Q. Okay. Now, you became aware of your investigation --
03:21PM 2 during your investigation that Mr. Bongiovanni's informed by
03:22PM 3 his G.S., Greg Yensan, in October of 2018 that Gerace is a
03:22PM 4 target of an investigation and stopped contact, correct?

03:22PM 5 A. I don't know that I knew it at that level of detail, no.

03:22PM 6 Q. Okay. I think --

03:22PM 7 **MR. MacKAY:** Ms. Champoux, can we pull up -- I think
03:22PM 8 it's Government Exhibit 97 in evidence.

03:22PM 9 **THE WITNESS:** Oh, I -- okay. From the memo.

03:22PM 10 **BY MR. MacKAY:**

03:22PM 11 Q. So what we're looking at now is Mr. Bongiovanni's
03:22PM 12 November 1st, 2018 memo, correct?

03:22PM 13 A. I see it in the lead-in to his memo.

03:22PM 14 Q. Right. So after that point in time, you would agree,
03:22PM 15 he's not initiating any contact with Mr. Gerace, correct?

03:22PM 16 A. After November? I would have to go back and look at the
03:22PM 17 text messages to crosscheck it, but --

03:22PM 18 Q. But generally speaking from what you can remember, we can
03:22PM 19 pull them back up, but -- yeah.

03:22PM 20 **MR. MacKAY:** Let's go back to 310D and work back to
03:23PM 21 page 56, I'm sorry, 76. So scrolling back, if you can scroll
03:23PM 22 up, Ms. Champoux. We can stop there.

03:23PM 23 **BY MR. MacKAY:**

03:23PM 24 Q. So, looks like the last text message there is
03:23PM 25 October 27th, 2018 from Mr. Bongiovanni, hope all is well.

03:23PM 1 You're not the only one mad at me, LOL?

03:23PM 2 A. Yes, I see that.

03:23PM 3 Q. So generally he's complying with the direction that is
03:23PM 4 embodied that he expresses in Exhibit 97, correct?

03:23PM 5 **MR. TRIPI:** Objection whether Mr. Bongiovanni. How
03:23PM 6 can this witness testify that Mr. Bongiovanni's complying with
03:23PM 7 a directive from his boss?

03:23PM 8 **MR. MacKAY:** Let me withdraw and reword.

03:23PM 9 **BY MR. MacKAY:**

03:23PM 10 Q. The lack of Mr. Bongiovanni initiating a text message
03:23PM 11 after that date is consistent with his representation in
03:24PM 12 Exhibit 97, correct?

03:24PM 13 A. Can we scroll?

03:24PM 14 **MR. MacKAY:** We can go down, Ms. Champoux, thank you.

03:24PM 15 **THE WITNESS:** And then can you repeat your question,
03:24PM 16 please?

03:24PM 17 **BY MR. MacKAY:**

03:24PM 18 Q. So, you see that there's one text message that he sends
03:24PM 19 on December of 2018, correct?

03:24PM 20 A. Yes.

03:24PM 21 Q. Other than that, it appears to be Mr. Gerace initiating
03:24PM 22 all contact after October 27th of 2018, correct?

03:24PM 23 A. In the text messages, yes.

03:24PM 24 Q. Okay. All right.

03:24PM 25 **MR. MacKAY:** I'm at a good break to move on to a

different subject, Judge, if you want to take a break.

THE COURT: Yeah, so let's take our afternoon break now. Please remember my instructions about not talking about the case with anyone including each other and not making up your mind. See you back here in about 15 minutes.

(Jury excused at 3:24 p.m.)

THE COURT: Okay. Anything we need to put on the record before we break?

MR. MacKAY: No, Your Honor.

THE COURT: Mr. Tripi, anything?

MR. TRIPI: Oh, no. Sorry, Judge.

THE COURT: And, Mr. MacKay, how much longer?

MR. MacKAY: I'm probably two thirds of the way through cross.

THE COURT: Okay.

MR. MacKAY: More than two thirds of the way through.

THE COURT: Okay. So we'll finish this guy today?

MR. MacKAY: Yes. I told them to keep the next witness around.

THE COURT: Okay. Good. Great. We'll see you in a few minutes.

MR. COOPER: Judge, do you think we're going to go through all the way through the end of the day?

THE COURT: I'm thinking so, yes, because we have an early break tomorrow for one of the jurors.

03:26PM 1 **MR. COOPER:** I would hope to get on -- we have two
03:26PM 2 witnesses, one's very quick, outside, another tenant. And
03:26PM 3 then we have a witness who's maybe a 30-minute direct who's
03:26PM 4 been waiting all day, and we'd like to get him on.

03:26PM 5 **THE COURT:** If we can, absolutely.

03:26PM 6 **MR. COOPER:** Thank you, Judge.

03:40PM 7 (Off the record at 3:26 p.m.)

03:40PM 8 (Back on the record at 3:40 p.m.)

03:40PM 9 (Jury not present.)

03:40PM 10 **THE CLERK:** All rise.

03:40PM 11 **THE COURT:** Please be seated.

03:40PM 12 **THE CLERK:** We are back on the record for the
03:40PM 13 continuation of the jury trial in case number 19-cr-227,
03:40PM 14 United States of America versus Joseph Bongiovanni.

03:40PM 15 All counsel and parties are present.

03:40PM 16 **THE COURT:** Okay. Anything before we break -- or,
03:40PM 17 bring them back, rather?

03:40PM 18 **MR. COOPER:** Judge, just one thing, and I'll
03:40PM 19 obviously defer to the Court your preference as to how to
03:40PM 20 handle that. This morning when you brought up housekeeping
03:41PM 21 matters, I think there's one thing that we should have flagged
03:41PM 22 for you.

03:41PM 23 There was a defense motion in limine with respect to
03:41PM 24 Mr. Augustyniak who's anticipated to testify this afternoon.
03:41PM 25 It's a rather simple issue, we briefed it in response. We

1 still have to argue it. And Mr. MacKay and I spoke, we both
2 think it's a pretty short argument. I don't know if the Court
3 would rather do that now before bringing the jury back in so
4 we don't bring them in and out twice.

5 **THE COURT:** Yes.

6 **MR. COOPER:** Is that okay?

7 **THE COURT:** Yes.

8 **MR. COOPER:** Parker, are you okay?

9 **MR. MacKAY:** I'm okay.

10 **MR. COOPER:** Okay. So, Judge, the motion by defense
11 counsel was to preclude testimony from Doug Augustyniak
12 regarding handing out envelopes with cash in them to three
13 individuals while he was employed at Pharaoh's.

14 **THE COURT:** He doesn't know there's cash in them.

15 **MR. COOPER:** He testified in grand jury that he
16 believed there to be cash in them based on handling them, and
17 that's inconsistent -- or, he has other grand jury testimony
18 where he basically says I didn't see inside the envelopes, so
19 I didn't know there was cash in them. But there's testimony
20 in the grand jury that he said he handled it, and he believed
21 it to be cash.

22 **THE COURT:** But how would he know it's cash and not
23 other kind of paper?

24 **MR. COOPER:** Well, Judge, it's context based upon his
25 employment there, the context of the envelope being handed to

03:42PM 1 him by his boss and saying, you know, so-and-so's gonna come
03:42PM 2 in to pick this up and get it.

03:42PM 3 I expect I can develop the testimony on direct
03:42PM 4 examination that working at a strip club, a largely cash
03:42PM 5 business, he's handled cash in envelopes numerous times
03:42PM 6 before, he's familiar with what it feels like, and that the
03:42PM 7 instructions that were given to him lent credence to the
03:42PM 8 belief that it was cash inside the envelopes. There's almost
03:42PM 9 no other reasonable supposition for what would be in them.
03:42PM 10 The size of the -- I would submit to the Court that a person
03:42PM 11 could make that determination based upon the contours and the
03:42PM 12 size of the imprint, so to speak, of the material inside the
03:42PM 13 envelope. It's a commonsense life experience and
03:42PM 14 determination. You don't need x-ray vision to know that
03:42PM 15 you're handing an envelope of cash to someone.

03:43PM 16 **THE COURT:** Okay. And then what is the relevance of
03:43PM 17 the cash?

03:43PM 18 **MR. COOPER:** Well, Judge, first of all, I would
03:43PM 19 submit that it's corroborative of testimony that the
03:43PM 20 government intends to elicit from Katrina Nigro, which is
03:43PM 21 going to be specifically that she provided envelopes with cash
03:43PM 22 in them to this defendant.

03:43PM 23 I expect she's going to be subjected to rigorous
03:43PM 24 cross-examination about that testimony from defense counsel.

03:43PM 25 So to the extent similar to Matt Albert's testimony,

that this testimony from Mr. Augustyniak is corroborative of testimony that will be offered by Ms. Nigro, it's relevant.

MR. TRIPI: Judge, if I can just add by way of reminder, when there was the cross-examination of Phlycia Hunt, I think it was Mr. MacKay who handled the cross, I apologize if I'm wrong, Mr. Singer, they asked her specifically, Katrina Nigro, she didn't work in the office. To create the inference that she wouldn't have handled cash and wouldn't have been able -- in a position to hand Mr. Bongiovanni cash.

So here is someone who wasn't married to Mr. Gerace, was a bouncer, and has handed out envelopes of what he believed to be cash to other people.

THE COURT: And I'm not following what the relevance is. So who are the people he gives the cash to?

MR. COOPER: So, Judge, he's able to give generic physical descriptions, but he's not able to identify an individual. Now, the generic --

THE COURT: Do we know the categories of people, who they are?

MR. COOPER: Sure. They're males. He describes them all as males. He describes them all as white males. And he describes at least one as a white male approximately in their 40s at the time.

And again, Judge, I mean, they can cross-examine as

1 to the weight to be given to that testimony, but it's
2 testimony that corroborates what Katrina Nigro will testify to
3 that she was tasked by Peter Gerace with handing envelopes of
4 cash to individuals including the defendant. She's gonna be
5 cross-examined rigorously on that subject. And if you
6 preclude this testimony, it keeps her on an island when, in
7 reality, there is some corroboration of that testimony.

8 Now you may -- the defense can argue that it's
9 minimal corroboration, but the government isn't -- I would
10 submit the government's entitled to corroborate that
11 testimony. There's certainly no 403 prejudice to the evidence
12 coming in.

13 **MR. MacKAY:** Judge, there's no connection on two
14 grounds. Number 1, it's not clear it's cash. It can be
15 folded up papers or whatever.

16 Number 2, he says this happens three times. He has
17 trouble pinning down the dates. He says he never sees any of
18 the three people again. And he's not able to specifically
19 identify them.

20 In a cash business like this, as Mr. Cooper said, you
21 can have any number of suppliers coming in during the day:
22 The liquor distributor, the food distributor, the linen
23 service, Peter Gerace's personal debts.

24 I mean, it's just here's an envelope, give it to this
25 person.

03:45PM 1 **MR. COOPER:** Those are all arguments as to weight,
03:45PM 2 not admissibility though, Judge.

03:45PM 3 **THE COURT:** But you've got to have some connection
03:45PM 4 between -- so, because Katrina Nigro says that she gave
03:45PM 5 envelopes with money in them to some folks who she shouldn't
03:46PM 6 be giving envelopes with money in to --

03:46PM 7 **MR. COOPER:** To this defendant specifically.

03:46PM 8 **THE COURT:** Pardon me?

03:46PM 9 **MR. COOPER:** To the defendant specifically she'll
03:46PM 10 testify.

03:46PM 11 **THE COURT:** Okay. So you've got her saying that.
03:46PM 12 The fact that other people -- I mean, so, I'm honestly not
03:46PM 13 following the connection. That -- that it's his modus
03:46PM 14 operandi to put money in envelopes and pay people with the
03:46PM 15 money in envelopes? Is that --

03:46PM 16 **MR. COOPER:** So, Judge, if the testimony is precluded
03:46PM 17 on relevance grounds, which as the Court knows has an
03:46PM 18 extremely low bar, on summation I expect --

03:46PM 19 **THE COURT:** It's a low bar sometimes, Mr. Cooper, not
03:46PM 20 other times.

03:46PM 21 **MR. COOPER:** Defense counsel -- well, I think the law
03:46PM 22 regarding relevance is that it is an extremely low bar.

03:46PM 23 **THE COURT:** It's a little different argument than you
03:46PM 24 guys gave me last Friday, but we'll that where it is. But go
03:46PM 25 ahead.

03:46PM 1 **MR. COOPER:** I'm confounded. I don't -- I'm not
03:46PM 2 following. I'm sorry, Judge.

03:46PM 3 **THE COURT:** That's okay. That's okay.

03:46PM 4 **MR. COOPER:** Okay. Federal Rule of Evidence 401 --

03:46PM 5 **THE COURT:** I know. I'm well aware of it.

03:46PM 6 **MR. COOPER:** -- regarding relevance is that it is --
03:47PM 7 the 2nd Circuit caselaw surrounding that rule is that it's an
03:47PM 8 extremely low bar.

03:47PM 9 **THE COURT:** Right. It's gotta make something more
03:47PM 10 likely than not. So what does this make -- what does this
03:47PM 11 make something more likely than not?

03:47PM 12 **MR. COOPER:** That Katrina Nigro paid the defendant
03:47PM 13 envelopes of cash. There's going to be cross-examination on
03:47PM 14 that subject. And if this testimony is precluded, despite it
03:47PM 15 having essentially no prejudicial nature, counsel will argue
03:47PM 16 the only person you heard that from is Mr. Katrina Nigro, and
03:47PM 17 you can't trust her.

03:47PM 18 And we have corroboration here that another employee
03:47PM 19 of Gerace was tasked with handing envelopes of what he
03:47PM 20 believed to be cash in envelopes.

03:47PM 21 **THE COURT:** No, no, no. Not coming in.

03:47PM 22 Okay. Are we ready?

03:47PM 23 **MR. MacKAY:** We are, Judge.

03:47PM 24 **THE COURT:** Let's bring them in.

03:48PM 25 (Jury seated at 3:48 p.m.)

03:49PM 1 **THE COURT:** Well, the record will reflect that all
03:49PM 2 our jurors are present again.

03:49PM 3 I remind the witness that he's still under oath.

03:49PM 4 Before you resume, Mr. MacKay --

03:49PM 5 We may go a little late today because tomorrow,
03:49PM 6 remember, we have a hard stop at 4:15, and I'm going to try to
03:49PM 7 break somewhere between 4 and 4:15. I think one of you has an
03:49PM 8 appointment, and you need to leave by 4:20, I think you said.
03:49PM 9 But I'm going to make sure that we leave by 4:20, we're gonna
03:49PM 10 have a hard stop at 4:15 tomorrow. So we may go a few minutes
03:49PM 11 late today.

03:49PM 12 You may continue, Mr. MacKay.

03:49PM 13 **MR. MacKAY:** Thank you.

03:49PM 14 **BY MR. MacKAY:**

03:49PM 15 Q. All right. So just to summarize the stuff we did with
03:49PM 16 the text messages, there's a couple of meetings in July of
03:49PM 17 2015, correct?

03:49PM 18 A. Yes.

03:49PM 19 Q. One or two meetings in 2016, correct?

03:49PM 20 A. Yes.

03:49PM 21 Q. Nothing in 2017, correct?

03:49PM 22 A. Not in the text, no.

03:50PM 23 Q. I'm sorry?

03:50PM 24 A. Not in the text, no.

03:50PM 25 Q. Not in the text. And then the Tommy Doctor cottage

03:50PM 1 rendezvous in 2018, correct?

03:50PM 2 A. July, I think. June or July.

03:50PM 3 Q. June or July of 2018?

03:50PM 4 A. Yes.

03:50PM 5 Q. And then no apparent meet-up after that, correct, from

03:50PM 6 the texts?

03:50PM 7 A. From the texts.

03:50PM 8 Q. Okay. All right. So, I want to talk about the search of

03:50PM 9 Mr. Bongiovanni's house.

03:50PM 10 So the warrant, that's executed about 6 in the morning,

03:50PM 11 correct?

03:50PM 12 A. Yes.

03:50PM 13 Q. And the way a warrant of this nature is executed is

03:50PM 14 street's blocked off, correct?

03:50PM 15 A. Yes, I'm sure it was.

03:50PM 16 Q. Okay. There's a large, sort of, specialty truck that

03:50PM 17 Homeland Security uses?

03:50PM 18 A. I don't think we had that yet.

03:50PM 19 Q. I'm thinking of like a gun truck. You don't know if you

03:50PM 20 used that?

03:50PM 21 A. Yeah. We have one now, I don't think we had it then.

03:50PM 22 Q. Okay.

03:50PM 23 A. So SUVs, probably.

03:50PM 24 Q. Okay. And so, a number of them, though, correct?

03:51PM 25 A. A couple.

03:51PM 1 Q. Okay.

03:51PM 2 A. Two or three.

03:51PM 3 Q. And a SWAT team or SORT team has got to be used from out

03:51PM 4 of town in this operation, correct?

03:51PM 5 A. No.

03:51PM 6 Q. Okay. You did use a local one?

03:51PM 7 A. Our -- the his --

03:51PM 8 Q. Okay.

03:51PM 9 A. -- Buffalo team.

03:51PM 10 Q. All right. A flash-bang grenade is used, correct?

03:51PM 11 A. Yes.

03:51PM 12 Q. And you might have seen it in the movies, but just so

03:51PM 13 that the jury understands, that's a percussion device that

03:51PM 14 you throw and it emits a loud percussion wave and flash?

03:51PM 15 A. Yes, it's a distraction device.

03:51PM 16 Q. Distraction?

03:51PM 17 A. A lot of noise, bright flash.

03:51PM 18 Q. Okay.

03:51PM 19 A. It was used in the backyard.

03:51PM 20 Q. Underneath the bed -- what was believed to be the bedroom

03:51PM 21 window, correct?

03:51PM 22 A. I'm not sure.

03:51PM 23 Q. Okay. In your training, you're taught that -- and

03:51PM 24 there's rare circumstances where these can actually injure

03:51PM 25 somebody?

03:51PM 1 A. A flash bang?

03:52PM 2 Q. Yes.

03:52PM 3 A. It could.

03:52PM 4 Q. Okay. A battering ram is used to break down the door,

03:52PM 5 correct?

03:52PM 6 A. Yes.

03:52PM 7 Q. Okay. And the his team that's about, what, nine to 12

03:52PM 8 agents?

03:52PM 9 A. 12. Right around 12.

03:52PM 10 Q. And there they're armed with M-4 rifles, correct?

03:52PM 11 A. Yeah, or a submachine gun.

03:52PM 12 Q. Okay. Now, Mr. Bongiovanni's encountered fairly close to

03:52PM 13 the door, correct?

03:52PM 14 A. I think so, but I was a distance away when he was first

03:52PM 15 encountered. Unless you're asking me about when I first

03:52PM 16 encountered him.

03:52PM 17 Q. From what you could see when the tea, m entered.

03:52PM 18 A. I couldn't.

03:52PM 19 Q. Did you understand that he was fairly close to the door?

03:52PM 20 A. I think on that main level of the house, but --

03:52PM 21 Q. He was -- let me ask you this way. He was secured rather

03:52PM 22 quickly, correct?

03:52PM 23 A. I think so, yes.

03:52PM 24 Q. And the way a team works, I think you led us through in

03:53PM 25 detail, but they go in, they secure anybody first, correct?

03:53PM 1 A. Yes.

03:53PM 2 Q. So there's no threats to the situation, correct?

03:53PM 3 A. Well, they secure people as they encounter them.

03:53PM 4 Q. And then they clear the house, correct?

03:53PM 5 A. Yes.

03:53PM 6 Q. And clearing means that they search to make sure that

03:53PM 7 there's nobody else around, that they didn't find or could be

03:53PM 8 hiding, correct?

03:53PM 9 A. Right.

03:53PM 10 Q. And while the house is being cleared, Mr. Bongiovanni's

03:53PM 11 taken outside, correct?

03:53PM 12 A. I think he was, yes.

03:53PM 13 Q. Okay. And at that time, he's in his boxers, correct?

03:53PM 14 A. I don't know.

03:53PM 15 Q. Okay. Now you had known in this investigation that

03:53PM 16 Mr. Bongiovanni had voluntarily come in to give a statement

03:53PM 17 to OIG inspectors back in March of 2019, correct?

03:53PM 18 A. He did agree to meet with them in March, yes.

03:53PM 19 Q. Right. So what I'm saying with that interaction is he

03:53PM 20 was notified to come in, I think it was the U.S. Attorney's

03:53PM 21 Office, correct?

03:53PM 22 A. I don't know where the interview took place.

03:54PM 23 Q. But he received a notice, and he walked in the front door

03:54PM 24 of somewhere to give that interview voluntarily, correct?

03:54PM 25 A. Yes.

03:54PM 1 Q. Okay. Now in executing the search warrant, you had no
03:54PM 2 indication that -- well, let me ask you this way. You knew
03:54PM 3 he still had a service weapon, correct?

03:54PM 4 A. Yes.

03:54PM 5 Q. Okay. No information, though, that he had a dangerous
03:54PM 6 dog or anything like that on premises, correct?

03:54PM 7 A. No.

03:54PM 8 Q. Okay. Did you meet his old sick dog, the Golden
03:54PM 9 Retriever, Buddy, at the time?

03:54PM 10 A. Yes.

03:54PM 11 Q. And nevertheless, you used all these tactics to enter and
03:54PM 12 secure the house that we've talked about, correct?

03:54PM 13 A. Yes.

03:54PM 14 Q. And you know in your experience that these tactics can
03:54PM 15 often startle or frighten individuals, correct?

03:54PM 16 A. In the heat of the moment, sure.

03:54PM 17 Q. I mean --

03:54PM 18 A. I mean, that's part of the tactic --

03:54PM 19 Q. Right --

03:54PM 20 A. -- to be honest.

03:55PM 21 Q. -- that's what I'm getting at. So the purpose of this
03:55PM 22 tactic is that it sort of unnerves people; fair to say,
03:55PM 23 correct?

03:55PM 24 A. Yes. But it's not -- it's not fast, like, it used to be
03:55PM 25 or you would see portrayed in the movies.

03:55PM 1 Q. Okay.

03:55PM 2 A. It's a very slow, deliberate process.

03:55PM 3 Q. But fair to say part of the intent of doing this is it

03:55PM 4 does create a stressful environment in the situation,

03:55PM 5 correct?

03:55PM 6 A. I mean, it can create a stressful environment, but that's

03:55PM 7 not the intent.

03:55PM 8 Q. Have you ever had your house raided?

03:55PM 9 A. No.

03:55PM 10 Q. Okay. Now, it also -- doing search warrants in this

03:55PM 11 manner also works to your benefit because sometimes people

03:55PM 12 can be flustered, correct?

03:55PM 13 A. We do search warrants in this benefit to safely clear

03:55PM 14 houses, and that's the only reason why we do them this way.

03:55PM 15 Q. Okay. And --

03:55PM 16 A. And those are decisions that are made at levels above the

03:55PM 17 case agents investigating the case.

03:55PM 18 Q. Okay. And in your experience, in the heat of the moment,

03:56PM 19 I think the term is you used, people can have their guard

03:56PM 20 down, correct?

03:56PM 21 **MR. TRIPI:** Objection as to what emotions people

03:56PM 22 have.

03:56PM 23 **BY MR. MacKAY:**

03:56PM 24 Q. Let me reword it. When you encounter subjects, has it

03:56PM 25 been your experience that sometimes these folks are

03:56PM 1 distracted?

03:56PM 2 **MR. TRIPI:** Objection. Why is that relevant in this
03:56PM 3 case?

03:56PM 4 **THE COURT:** Overruled.

03:56PM 5 **THE WITNESS:** Well, I mean, distracted from what? I
03:56PM 6 guess is -- I would need to understand.

03:56PM 7 **BY MR. MacKAY:**

03:56PM 8 Q. Going about their business otherwise, until agents enter
03:56PM 9 their home?

03:56PM 10 A. Well, of course, yes, they're distracted from that.

03:56PM 11 Q. Okay. All right. So then after the house is cleared,
03:56PM 12 you participate in interview with Mr. Bongiovanni at his
03:56PM 13 dining room table, correct?

03:56PM 14 A. I didn't hear the whole thing.

03:56PM 15 Q. I'm sorry, my voice is failing here.

03:56PM 16 After the house is cleared, you participate in an
03:56PM 17 interview with Mr. Bongiovanni at a table, correct?

03:57PM 18 A. Yes, in the dining room.

03:57PM 19 Q. Dining room table.

03:57PM 20 A. Eat-in kitchen, dining room.

03:57PM 21 Q. He's still in whatever clothes he's encountered in,
03:57PM 22 correct?

03:57PM 23 A. I mean, if -- if he was in boxer shorts, he wasn't in
03:57PM 24 them anymore. He was in basketball-style shorts and a
03:57PM 25 T-shirt.

03:57PM 1 Q. Okay. I mean, to your knowledge, he wasn't told, like,
03:57PM 2 why don't you go upstairs and get dressed or anything,
03:57PM 3 correct?
03:57PM 4 A. No, we would never do that. But we bring people clothes.
03:57PM 5 Q. Okay.
03:57PM 6 A. We ask them what they want, and then bring them those
03:57PM 7 clothes.
03:57PM 8 Q. Now you showed us a photo on direct, and you made some
03:57PM 9 markings of who was sitting at the table; do you remember
03:57PM 10 that?
03:57PM 11 A. I do.
03:57PM 12 Q. Mr. Bongiovanni's occupying one spot, correct?
03:57PM 13 A. Yes.
03:57PM 14 Q. And then you and other agents are occupying the remaining
03:57PM 15 chairs at the table, correct?
03:57PM 16 A. Yes.
03:57PM 17 Q. At the same time, you've got the remaining his team going
03:57PM 18 about, doing their business in the house, correct?
03:57PM 19 A. That's correct.
03:57PM 20 Q. Okay. And at that point in time, he's asked a number of
03:58PM 21 questions, correct?
03:58PM 22 A. Yes, he was.
03:58PM 23 Q. That's -- that's the interview we've talked about,
03:58PM 24 correct?
03:58PM 25 A. Yes.

03:58PM 1 Q. Now you didn't record the interview and in audio or video
03:58PM 2 format, correct?

03:58PM 3 A. No.

03:58PM 4 Q. You had an iPhone or Smartphone on you, correct?

03:58PM 5 A. I did.

03:58PM 6 Q. Okay. As you would assume other agents did as well, too?

03:58PM 7 A. Yes.

03:58PM 8 Q. Okay. And those, in your experience, can be used to
03:58PM 9 record interviews, correct?

03:58PM 10 A. They can. But I would never use one to do that.

03:58PM 11 Q. Okay. But I guess I'm asking in this case, though, you
03:58PM 12 didn't use a phone to record the interview, correct?

03:58PM 13 A. I did not, no.

03:58PM 14 Q. Okay. You didn't remove Mr. Bongiovanni to a location
03:58PM 15 like a law enforcement headquarters where there's a room with
03:58PM 16 audio or video recording, correct?

03:58PM 17 A. No.

03:58PM 18 Q. You -- and obviously when you sit down to talk with
03:59PM 19 Mr. Bongiovanni, it's your intention to elicit statements
03:59PM 20 from him, correct?

03:59PM 21 A. Yes.

03:59PM 22 Q. I mean, you're hoping, in sum and substance, that he's
03:59PM 23 gonna talk with you, correct?

03:59PM 24 A. Yes.

03:59PM 25 Q. And those statements will have value, you hope, to your

03:59PM 1 investigation, correct?

03:59PM 2 A. That's -- yes.

03:59PM 3 Q. I mean, that's why you're talking with him, correct?

03:59PM 4 A. Right. That's the purpose of attempting the interview.

03:59PM 5 Q. I mean, you entered that conversation with specific

03:59PM 6 topics you wanted to talk about, correct?

03:59PM 7 A. There were specific things we wanted to cover, yes.

03:59PM 8 Q. Okay. Specific topics you wanted to obtain answers about

03:59PM 9 from him, correct?

03:59PM 10 A. Yes.

03:59PM 11 Q. All right. And you've been an agent since, I think,

03:59PM 12 what, February of 2012, you said?

04:00PM 13 A. No, April of 1999.

04:00PM 14 Q. April of '99, okay. But you've been with his I think you

04:00PM 15 said --

04:00PM 16 A. Since February of '12.

04:00PM 17 Q. -- since August -- I'm sorry?

04:00PM 18 A. February '12 for his.

04:00PM 19 Q. That's when you started your training?

04:00PM 20 A. Yep.

04:00PM 21 Q. And then you were deployed in or about August of 2012, I

04:00PM 22 guess, when you finished training and you --

04:00PM 23 A. And came here?

04:00PM 24 Q. -- began on the street, yep.

04:00PM 25 A. Yes.

04:00PM 1 Q. And you've conducted a number of interviews since that
04:00PM 2 time, correct?

04:00PM 3 A. And before, yes.

04:00PM 4 Q. Okay. Can you ballpark for the jury how many interviews
04:00PM 5 you've done over your career?

04:00PM 6 A. Hundreds.

04:00PM 7 Q. Okay.

04:00PM 8 A. I don't know, more than a thousand, maybe.

04:00PM 9 Q. You've interviewed witnesses to situations, correct?

04:00PM 10 A. Yes.

04:00PM 11 Q. You've interviewed subjects of an investigation, correct?

04:00PM 12 A. I have.

04:00PM 13 Q. And you've interviewed the actual targets of
04:00PM 14 investigations, correct?

04:00PM 15 A. Yes.

04:00PM 16 Q. And in your experience, body language is important when
04:01PM 17 interpreting statements to some degree, correct?

04:01PM 18 A. To some degree.

04:01PM 19 Q. Okay. Helps in your experience for you to judge the
04:01PM 20 meaning of words in an interview, correct?

04:01PM 21 A. The body language --

04:01PM 22 Q. Yes.

04:01PM 23 A. -- that you're saying --

04:01PM 24 Q. Yes.

04:01PM 25 A. -- to judge the meaning of words? I'm not sure I'm --

04:01PM 1 Q. I guess --

04:01PM 2 A. -- following that.

04:01PM 3 Q. -- I'm asking, do you use body language to interpret what
04:01PM 4 somebody's saying in an interview?

04:01PM 5 A. Well, sure, it's part of communication.

04:01PM 6 Q. Right. Same goes with voice tone. You use that, of
04:01PM 7 course, to interpret what somebody's saying, right?

04:01PM 8 A. Yep.

04:01PM 9 Q. Because two -- somebody can say something -- say the same
04:01PM 10 words very differently and could have a very different
04:01PM 11 meaning, correct?

04:01PM 12 A. Sure. You could make -- say the same words as a
04:01PM 13 statement or a question --

04:01PM 14 Q. Okay.

04:01PM 15 A. -- depending on the tone.

04:01PM 16 Q. Likewise, facial expressions can help you understand what
04:01PM 17 somebody's trying to communicate, correct?

04:01PM 18 A. Yes.

04:01PM 19 Q. Because all of these sort of give you some insight of
04:02PM 20 what a witness -- or, I'm sorry, a subject of an interview
04:02PM 21 may be trying to communicate, right?

04:02PM 22 A. Yes.

04:02PM 23 Q. Might indicate, for example, whether the subject is
04:02PM 24 confused, for example, right?

04:02PM 25 A. Sure.

04:02PM 1 Q. Okay. Now the way you recorded or memorialized this
04:02PM 2 interview was to take some handwritten notes, correct?

04:02PM 3 A. I did.

04:02PM 4 Q. And then at a later point in time you reduced those to a
04:02PM 5 written report, correct?

04:02PM 6 A. A few days later, yes.

04:02PM 7 Q. Okay. And is that what you reviewed to testify here
04:02PM 8 today? Is the typewritten report, is that what you reviewed
04:02PM 9 here now as you sit here on the stand in preparation for
04:02PM 10 testimony?

04:02PM 11 A. Yes.

04:02PM 12 Q. Okay. I think you told us on direct you defined a
04:02PM 13 difference between an interrogation and an interview; do you
04:02PM 14 remember that?

04:02PM 15 A. I think I got through the definition of interview, and
04:03PM 16 then we went off and continued doing questions. I don't --

04:03PM 17 Q. Okay. So --

04:03PM 18 A. -- think I --

04:03PM 19 Q. -- I recall --

04:03PM 20 A. -- ever talked about --

04:03PM 21 Q. -- I recall you talking a little bit about how one of the
04:03PM 22 formats is open-ended questions, one of them is closed-ended
04:03PM 23 questions, correct?

04:03PM 24 A. Yes.

04:03PM 25 Q. Will you tell the jury again why you use one versus the

04:03PM 1 other?

04:03PM 2 A. Well, normal -- in many instances, you would use both.

04:03PM 3 Open-ended questions to elicit responses. Many times you

04:03PM 4 learn things that you wouldn't learn from a close-ended

04:03PM 5 question, doing it that way.

04:03PM 6 And then in an interrogation, it shifts where the person

04:03PM 7 asking the questions does much more talking. And then you

04:03PM 8 ask more direct accusatory questions.

04:03PM 9 Q. Okay. And when you move -- and why, in your experience,
04:03PM 10 do you move to that accusatory question format?

04:03PM 11 A. You do it when it's appropriate.

04:03PM 12 Q. And why would it be appropriate?

04:04PM 13 A. There's lots of reasons. You know, I mean, I guess if
04:04PM 14 you're gonna get to the point where you're just gonna start
04:04PM 15 interrogating somebody, you just -- I don't understand -- I
04:04PM 16 guess I really don't understand the distinction.

04:04PM 17 Q. I mean, the way you're talking, it sounds like you've got
04:04PM 18 some definite reasons why you choose to ask open-ended versus
04:04PM 19 closed-ended questions. I'm trying to get the jury to
04:04PM 20 understand, it sounds like when you move to close-ended
04:04PM 21 questions, you have a specific reason for doing that, that's
04:04PM 22 what I'm trying to get the jury to understand.

04:04PM 23 A. Yes. But that's also setting dependant. I don't think
04:04PM 24 if -- so it's not a transition that I would have made at that
04:04PM 25 dining room table.

04:04PM 1 But I mean, at some point, you know, in the interview
04:04PM 2 room environment that you described, that's probably the most
04:05PM 3 advantageous place to move to questions, you know, that are
04:05PM 4 all around did you do it? The did-you-do-it question.
04:05PM 5 Q. And why would you move to that format?
04:05PM 6 A. To try to elicit that answer.
04:05PM 7 Q. Okay. So it's in a, again, I'm just trying to drill down
04:05PM 8 a little bit deeper. It seems like you're trying to tell us
04:05PM 9 that format was not appropriate for the kitchen table, and
04:05PM 10 I'm trying to get the jury to understand, well, why is that,
04:05PM 11 in your opinion, not to use that format of discussion.
04:05PM 12 A. I just don't -- I don't think it would -- it's not
04:05PM 13 advantageous in that setting.
04:05PM 14 Q. Advantageous to what?
04:05PM 15 A. To what we're trying to accomplish with the
04:05PM 16 investigators.
04:05PM 17 Q. Which is what at that point in time?
04:05PM 18 A. To elicit information.
04:05PM 19 Q. Okay. And what is the purpose of eliciting information
04:05PM 20 at that point in time when you've got Mr. Bongiovanni at the
04:05PM 21 kitchen table?
04:05PM 22 A. We're trying to get answers to questions. We hadn't
04:05PM 23 encountered any resistance to answering questions, so there
04:06PM 24 was -- we never felt the need to transition to more direct
04:06PM 25 questions.

04:06PM 1 Q. Okay. So one of the things you asked him about was his
04:06PM 2 relationship with Mr. Gerace, correct?

04:06PM 3 A. Yes.

04:06PM 4 Q. And the term "close relationship" comes up, correct?

04:06PM 5 A. Yes.

04:06PM 6 Q. Was that the exact -- was that your phrase? Or was that
04:06PM 7 Mr. Bongiovanni's phrase?

04:06PM 8 A. I would have to -- if I reviewed the reports and saw
04:06PM 9 where the quotes are I would know.

04:06PM 10 I put the quotes round the exact phrases. I can't
04:06PM 11 remember if that one's quoted or not.

04:06PM 12 Q. I'm going to show you what's been marked for
04:06PM 13 identification as Government Exhibit 3594BJ-1.

04:06PM 14 **MR. MacKAY:** For the government's reference, I think
04:06PM 15 the topic is covered on page 2.

04:06PM 16 **BY MR. MacKAY:**

04:07PM 17 Q. So I'll hand that to you. If you want to look that over,
04:07PM 18 Mr. Ryan, to yourself.

04:07PM 19 I'll take that back from you.

04:07PM 20 So in the context of the discussion you were having with
04:07PM 21 Mr. Bongiovanni at the table, was close relationship a term
04:07PM 22 that he used, or was it a term -- was it a term that was
04:07PM 23 quoted?

04:07PM 24 A. It's not a term that was quoted, no.

04:07PM 25 Q. Okay. So what does it mean to you when you wrote a

1 report and the term doesn't appear in quotes?

2 A. So that's a summary and a characterization of that part
3 of the conversation.

4 Q. Okay. So, close -- so, as you understand it from reading
5 the report, close relationship is not a word or phrase that
6 Mr. -- that came out of Mr. Bongiovanni's mouth, correct?

7 A. It's -- it's not quoted in the report. And it's been a
8 long time. And I don't remember if he said --

9 Q. Okay.

10 A. -- those exact words or not.

11 Q. So, I think what I'm understanding here is close
12 relationship is your characterization of what Mr. Bongiovanni
13 said, correct?

14 A. Yes.

15 Q. You also asked him about whether he'd spoken with
16 Mr. Gerace in over a year; do you remember that?

17 A. Yes. Well, I asked -- we were both asking questions. So
18 Special Agent Carpenter's also asking questions. And I was
19 taking all the notes.

20 Between the two of us, we asked him when the last time he
21 had contact or had spoken to Peter Gerace was.

22 Q. Okay. And you said --

23 A. So we didn't introduce the time frame.

24 Q. Okay. But I just want to be clear.

25 When I'm talking about questions being posed to

04:09PM 1 Mr. Bongiovanni, I might have referred to you. But you're
04:09PM 2 saying sometimes it's you, sometimes it's Agent Carpenter?

04:09PM 3 A. Yes.

04:09PM 4 Q. Okay. But be that as it may, whoever asked him, he was
04:09PM 5 asked about having spoken with Mr. Gerace, correct?

04:09PM 6 A. Right.

04:09PM 7 Q. Okay. And I just want to get, again, the terminology.

04:09PM 8 Do you recall that's how the question was phrased? Or do you
04:09PM 9 remember what he was asked specifically?

04:09PM 10 A. He was asked about contact with Mr. Gerace.

04:09PM 11 Q. And it's your testimony that he's -- he responds that he
04:09PM 12 hasn't spoken to him in over a year?

04:09PM 13 A. Yes.

04:09PM 14 Q. Okay. So you ask him about contact. And he responds
04:09PM 15 with when he's spoken to Mr. Gerace last, correct?

04:09PM 16 A. Yes.

04:09PM 17 Q. Okay. Did you follow that up to figure out what format
04:09PM 18 he had spoken to him? Whether it was in person? On the
04:09PM 19 phone? Anything like that?

04:09PM 20 A. He said he hadn't spoken to him.

04:10PM 21 Q. Okay. Did the topic of discussion move on to whether
04:10PM 22 they were ever present together, Mr. Gerace and
04:10PM 23 Mr. Bongiovanni?

04:10PM 24 A. I mean, we talked about that, yes.

04:10PM 25 Q. Would that be referring to this June 2017 -- 2018 party

04:10PM

1 at the cottage?

04:10PM

2 A. Yes, among other things.

04:10PM

3 Q. Okay. And this is going to sound silly, but obviously

04:10PM

4 you were not present at that party, correct?

04:10PM

5 A. No.

04:10PM

6 Q. You don't have any information as you sit here today how

04:10PM

7 long both of them were present at that party together,

04:10PM

8 correct?

04:10PM

9 A. No.

04:10PM

10 Q. And Mr. Bongiovanni didn't talk about any substantial

04:10PM

11 interaction he had at that party with Mr. Gerace, correct?

04:10PM

12 A. No, he just said that they were at the cottage together.

04:10PM

13 Q. Okay. And you had in your possession the photo that

04:11PM

14 shows them in the same photo, correct?

04:11PM

15 A. Yes.

04:11PM

16 Q. But other than the time necessary to take a photo

04:11PM

17 together, you have no other information on how much

04:11PM

18 interaction they otherwise had at that party, correct?

04:11PM

19 A. Not at that time, we didn't know.

04:11PM

20 Q. You asked him about Anthony Gerace, correct?

04:11PM

21 A. Yes.

04:11PM

22 Q. And about whether he was at a party with him in 2016,

04:11PM

23 correct?

04:11PM

24 A. Talking about the Toronto --

04:11PM

25 Q. Toronto party.

04:11PM 1 A. Yes, sir. I think -- no, I think we asked him if he
04:11PM 2 ever, and then later asked him about the photograph, and that
04:11PM 3 was when the party came up.

04:11PM 4 Q. Okay. And you recall in the photograph, Anthony Gerace
04:11PM 5 is not present in that photograph, correct?

04:11PM 6 A. No, he's not.

04:11PM 7 Q. Okay. Now, did you come to learn that what was -- what
04:11PM 8 the photo pertains to is a birthday party for
04:11PM 9 Mr. Bongiovanni's sister-in-law in Toronto?

04:11PM 10 A. Yes.

04:12PM 11 Q. Okay. And do you understand that there was a restaurant
04:12PM 12 that party occurred at?

04:12PM 13 A. Yes. I mean, just from the context of the photograph.

04:12PM 14 Q. So did you come to learn that there was a birthday party
04:12PM 15 on a Friday night, and sort of going out to bars separately
04:12PM 16 on Saturday night was the timeline of what happened?

04:12PM 17 A. No.

04:12PM 18 Q. Okay. But Mr. Bongiovanni maintained, well, I wasn't at
04:12PM 19 a party with Mr. Gerace, correct?

04:12PM 20 **MR. TRIPI:** Objection as to what Mr. Bongiovanni
04:12PM 21 maintained. His statements are hearsay when offered through
04:12PM 22 the --

04:12PM 23 **THE COURT:** I think he's asking about what he
04:12PM 24 testified to on direct.

04:12PM 25 **MR. TRIPI:** I didn't hear that as part of the

04:12PM 1 question, I apologize.

04:12PM 2 **THE COURT:** Okay. Well, why don't you rephrase.

04:12PM 3 **BY MR. MacKAY:**

04:12PM 4 Q. What was your test -- what did Mr. Bongiovanni say
04:12PM 5 regarding interactions with Anthony Gerace?

04:12PM 6 A. That he didn't have social interactions with Anthony
04:12PM 7 Gerace.

04:12PM 8 Q. Okay. And you also covered the topic of Michael Sinatra,
04:13PM 9 correct?

04:13PM 10 A. Yes.

04:13PM 11 Q. And Michael Sinatra is present in that photo, to your
04:13PM 12 understanding, at the Toronto party, correct?

04:13PM 13 A. Yes.

04:13PM 14 Q. And in your investigations, did you review border
04:13PM 15 crossings?

04:13PM 16 A. Yes.

04:13PM 17 Q. Okay. And you're aware from your investigation that a
04:13PM 18 number of different people met up on this trip in Toronto,
04:13PM 19 correct?

04:13PM 20 A. Yes.

04:13PM 21 Q. And they went up at different points in time, correct?

04:13PM 22 A. Yes.

04:13PM 23 Q. Okay.

04:13PM 24 A. They didn't all travel together, is my understanding.

04:13PM 25 Q. That's what I'm asking. You're not aware of any

04:13PM 1 information that Mr. Bongiovanni traveled to or from Toronto

04:13PM 2 with Mr. Sinatra, correct?

04:13PM 3 A. I'm not.

04:13PM 4 Q. Okay. And there was discussion as well about whether

04:13PM 5 Mr. Bongiovanni -- Mr. Sinatra was -- how they were

04:14PM 6 connected -- I'm sorry, withdraw the question.

04:14PM 7 There was discussion about Mr. Sinatra's connection to

04:14PM 8 Mr. Bongiovanni, correct --

04:14PM 9 A. Yes.

04:14PM 10 Q. -- in the context of Sinatra being a landscaper, correct?

04:14PM 11 A. Yes.

04:14PM 12 Q. And did you come to do any investigation to learn whether

04:14PM 13 in fact Mr. Sinatra had done landscaping work at

04:14PM 14 Mr. Bongiovanni's Alder Place house?

04:14PM 15 A. No. Well, I mean, there was no reason to doubt that at

04:14PM 16 that point.

04:14PM 17 Q. And did your investigation otherwise reveal that

04:14PM 18 Mr. Sinatra's business is the landscaping business?

04:14PM 19 A. He does have a landscaping business, yes.

04:14PM 20 Q. And the topic at some point in time turns to Mr. Gerace

04:14PM 21 and past cooperation with the DEA, correct?

04:14PM 22 A. Yes.

04:14PM 23 Q. And what does -- what is said on that topic? What did

04:14PM 24 Mr. Bongiovanni say about that?

04:15PM 25 A. He said that Peter Gerace tried to cooperate with the

1 Buffalo DEA office one time. He said he recused himself.

2 Mr. Bongiovanni recused himself because of their personal

3 relationship. He referred the matter to his supervisor, and

4 the supervisor referred it to the FBI.

5 I can't remember if it was me or Special Agent Carpenter,

6 but I think it was me, asked if he knew if Peter Gerace had

7 ever been signed up as a source by anyone, and he said he

8 didn't know.

9 Q. Okay. So did your investigation come to reveal that

10 there was some form of coordination at the group supervisor

11 level between the DEA and the FBI?

12 A. Yes.

13 Q. Did you understand that basically the DEA and FBI group

14 supervisors arranged some sort of contact?

15 **MR. TRIPI:** Objection. Lack of personal knowledge.

16 It would be hearsay.

17 **THE COURT:** He's asking if he knows that, if his

18 investigation revealed that.

19 No, this is cross-examination, overruled.

20 **BY MR. MacKAY:**

21 Q. Did your investigation reveal whether there was any sort

22 of meeting set up at the group supervisor level?

23 A. I don't remember the exact details of who set the meeting

24 up. I learned that a meeting eventually happened between

25 Mr. Bongiovanni and Tom Herbst from FBI.

04:16PM 1 Q. But you did confirm information that Mr. Bongiovanni had
04:16PM 2 referred the matter up to his group supervisor, correct?

04:16PM 3 A. Yes.

04:16PM 4 Q. Okay. And I think we covered this already with your
04:16PM 5 dates, but you were not a member of the DEA at that point in
04:16PM 6 time in 2009, correct?

04:16PM 7 A. I was not.

04:16PM 8 Q. Okay. And then the topic turns to this C2-13-0026 case
04:16PM 9 file, correct?

04:16PM 10 A. Yes.

04:16PM 11 Q. And I think what I understood from your direct testimony
04:16PM 12 is the topic turns there because the file's physically
04:16PM 13 discovered at the house, correct?

04:16PM 14 A. Correct.

04:17PM 15 Q. We went through the contents both on direct and cross.
04:17PM 16 But what did Mr. Bongiovanni say about that file again, why
04:17PM 17 it was there?

04:17PM 18 A. Well, we have two different answers about why it was
04:17PM 19 there.

04:17PM 20 Q. Want to go through the first?

04:17PM 21 A. That he wanted to show -- he wanted to prove that his
04:17PM 22 investigation was on the up and up.

04:17PM 23 Q. Okay. And when you use the words "up and up," were those
04:17PM 24 your words? Or were those -- I'm sorry, were they your
04:17PM 25 words? Were those Mr. Bongiovanni's words? Or was that a

04:17PM 1 summary of what you can remember?

04:17PM 2 A. I don't remember if he used the exact phrase, up and up.

04:17PM 3 But the meaning of what he said was that his

04:17PM 4 investigation was legitimate.

04:17PM 5 Q. Okay. So as you sit here today, you can't recall whether

04:17PM 6 the words or the phrase "up and up" was uttered by

04:17PM 7 Mr. Bongiovanni; is that fair to say?

04:17PM 8 A. No.

04:17PM 9 Q. It's not fair to say? Or you just don't remember?

04:18PM 10 A. I'm -- I don't remember. If I reviewed my notes and

04:18PM 11 wrote "up and up" with quotes around it, that would be the

04:18PM 12 one way that I would know for sure.

04:18PM 13 Q. I'll hand you again 3594BJ-1. Review that again. Having

04:18PM 14 trouble finding it specifically, but you see that mentioned.

04:18PM 15 You're looking back up. Did you find it?

04:19PM 16 A. I did.

04:19PM 17 Q. Okay. I'll take it back from you.

04:19PM 18 Having reviewed that, does that refresh your recollection

04:19PM 19 about whether "on the up and up" is -- is a phrase

04:19PM 20 Mr. Bongiovanni used, or you were using as a summary?

04:19PM 21 A. As a summary.

04:19PM 22 Q. And that would be because reviewing your report you don't

04:19PM 23 see quotes in that, correct?

04:19PM 24 A. That's correct.

04:19PM 25 Q. So those are your words, not his?

04:19PM 1 A. It's my words to characterize what -- his message that he
04:19PM 2 wanted to show that the investigation was legitimate, yes.

04:19PM 3 Q. Okay. Now, what was his second explanation?

04:19PM 4 A. That he had become aware of the investigation of the
04:19PM 5 Serio drug-trafficking organization that I was part of from
04:19PM 6 Special Agent Carpenter.

04:19PM 7 Q. Now, back in late 2018, 2019, you're working on this
04:20PM 8 Bongiovanni investigation, we'll call it, but you still
04:20PM 9 maintain regular duties at the DEA office in Buffalo,
04:20PM 10 correct?

04:20PM 11 A. I would say irregular duties at the DEA office in
04:20PM 12 Buffalo.

04:20PM 13 Q. I guess what I'm asking --

04:20PM 14 A. So, I went from being there five days a week to much less
04:20PM 15 frequently --

04:20PM 16 Q. That's what I'm asking --

04:20PM 17 A. -- for the --

04:20PM 18 Q. -- you still --

04:20PM 19 A. -- balance of '18 --

04:20PM 20 **THE COURT:** One at a time, guys.

04:20PM 21 **THE WITNESS:** Sorry.

04:20PM 22 **BY MR. MacKAY:**

04:20PM 23 Q. My question was: You still reported in some fashion to
04:20PM 24 that office?

04:20PM 25 A. Yes.

04:20PM 1 Q. Okay. And but at that point in time, you're in a
04:20PM 2 different group than Mr. Bongiovanni, correct?

04:20PM 3 A. For the entire time that I was there, I was in a
04:20PM 4 different group.

04:20PM 5 Q. Right. But specifically directing your attention to --
04:20PM 6 to late 2018 to 2019, you sat in an entirely different group,
04:20PM 7 correct?

04:20PM 8 A. Yes.

04:20PM 9 Q. So as you sit here today, fair to say you don't know all
04:20PM 10 of the office gossip and rumors that are circulating around
04:21PM 11 the office?

04:21PM 12 **MR. TRIPI:** Objection as to office gossip and rumors.
04:21PM 13 What is that relevant to?

04:21PM 14 **THE COURT:** Overruled.

04:21PM 15 **THE WITNESS:** No.

04:21PM 16 **BY MR. MacKAY:**

04:21PM 17 Q. All right. So the subject turns to Peter Militello in
04:21PM 18 some fashion, correct?

04:21PM 19 A. The second time I asked him about the Serio investigation
04:21PM 20 in the file.

04:21PM 21 Q. How does that come up?

04:21PM 22 A. I asked him what happened with his Serio investigation,
04:21PM 23 if he ever made an arrest? What happened? What was the
04:21PM 24 outcome of the case?

04:21PM 25 Q. And what did he tell you?

04:21PM 1 A. He said that the case died when his source was arrested.

04:21PM 2 Q. Okay. And you --

04:21PM 3 A. And then he identified the source as Peter Militello.

04:21PM 4 Q. And you understood in your investigation, or formed the

04:21PM 5 belief, Peter Militello was not a confidential source in that

04:21PM 6 file, correct?

04:21PM 7 A. He was not.

04:21PM 8 Q. Okay. The confidential source you associate with Ron

04:22PM 9 Serio, the Ron Serio file, the C2-13-0026, that was Robert

04:22PM 10 Kaiser, correct?

04:22PM 11 A. I think there were others also, but --

04:22PM 12 Q. Okay.

04:22PM 13 A. -- yes.

04:22PM 14 Q. But at least Robert Kaiser?

04:22PM 15 A. But at least Robert Kaiser, he certainly was, yes.

04:22PM 16 Q. Okay. Now at that point in time when you're sitting with

04:22PM 17 Mr. Bongiovanni at the kitchen table, are you aware of Robert

04:22PM 18 Kaiser being the source in that file?

04:22PM 19 A. I knew that there was more than one source. I knew that

04:22PM 20 there were names that Mr. Serio had told us that he had

04:22PM 21 become aware of were sources. One of them was Kaiser.

04:22PM 22 I don't remember if there were sources that we didn't

04:22PM 23 know the names to yet, or not.

04:22PM 24 Q. Okay.

04:22PM 25 A. Because there was a period of time where we didn't know.

04:23PM 1 Q. But the only name Mr. Bongiovanni provides you with is
04:23PM 2 Peter Militello, correct?

04:23PM 3 A. Yes.

04:23PM 4 Q. And you didn't push back on that representation at that
04:23PM 5 point in time, correct?

04:23PM 6 A. I did not.

04:23PM 7 Q. Okay. So there were no further questions asked to
04:23PM 8 clarify what Mr. Bongiovanni meant by "source," correct?

04:23PM 9 A. No. I -- I -- I mean, that can -- only has one meaning,
04:23PM 10 so I didn't really --

04:23PM 11 Q. What do you understand, well --

04:23PM 12 A. Source --

04:23PM 13 Q. We're talking over each other a little bit.

04:23PM 14 What do you understand the term "source" to mean?

04:23PM 15 A. In this law enforcement context like this?

04:23PM 16 Q. Yes.

04:23PM 17 A. Someone who's cooperating and providing information.

04:23PM 18 Q. And that's the understanding you entered the conversation
04:23PM 19 with, correct?

04:23PM 20 A. Of what a source is?

04:23PM 21 Q. Yes.

04:23PM 22 A. Yes. And then also sources can proactively cooperate,
04:23PM 23 too. Do things like a controlled buy, or a controlled
04:23PM 24 meeting.

04:23PM 25 Q. Well, and fair to say, though, that in drug

1 investigations, the term "source" can also mean a source of
2 supply, correct?

3 A. That's not the context of that conversation.

4 Q. Why not?

5 A. Because it wasn't.

6 Q. I guess I'm trying to ask, why wasn't that the context of
7 the conversation?

8 A. Well, when he said -- he said my source was arrested.

9 Not Ron Serio's source was arrested.

10 So if it's Ron Serio's source of supply, that's one
11 thing.

12 My source -- if I'm talking about my source as a law
13 enforcement officer, I'm not talking about a source of
14 supply.

15 Q. Okay. But I think what you just talked about here is you
16 interpreted it to mean I was talking about my source, Joe
17 Bongiovanni's source, correct?

18 A. No, I'm saying that's what -- that's what we were talking
19 about.

20 Q. Okay. Did Mr. Bongiovanni ever use the term
21 "confidential source" in this conversation?

22 A. No, he said "my source."

23 Q. Okay. And you understood that when he said "my source,"
24 that he wasn't referring to Ron Serio's source of supply,
25 correct?

04:25PM 1 A. Correct.

04:25PM 2 Q. Okay. But in your job as an his agent, also working with
04:25PM 3 the DEA, you've also heard the term "source of supply" in --
04:25PM 4 in your work, correct?

04:25PM 5 A. Yes.

04:25PM 6 Q. And you separate source of supply from the term
04:25PM 7 "confidential source," correct?

04:25PM 8 A. Yes.

04:25PM 9 Q. One's somebody who's supplying drugs, correct?

04:25PM 10 A. The source of supply.

04:25PM 11 Q. And one is somebody who is, in effect, an informant
04:25PM 12 correct?

04:25PM 13 A. Yes.

04:25PM 14 Q. So did you come to learn in your investigation that Peter
04:25PM 15 Militello's role, ultimately, is that he's deemed to be a
04:25PM 16 source of supply?

04:25PM 17 **MR. TRIPI:** Objection. In what?

04:25PM 18 **THE COURT:** Yeah.

04:25PM 19 **MR. TRIPI:** In what file? In what context?

04:25PM 20 **THE COURT:** Sustained, yes.

04:25PM 21 **MR. TRIPI:** Okay.

04:25PM 22 **BY MR. MacKAY:**

04:25PM 23 Q. All right. Did you -- did you come in your investigation
04:25PM 24 to learn more about Peter Militello and who he was?

04:25PM 25 A. Yes.

04:25PM 1 Q. Okay. Who did you understand him to be as a result of
04:25PM 2 your investigation?

04:26PM 3 A. He was a drug distributor who went to prison for selling
04:26PM 4 an opiate that killed someone with an overdose.

04:26PM 5 Q. Okay. And did your investigation reveal that Robert
04:26PM 6 Kaiser was the source, the confidential source, who led to
04:26PM 7 Peter Militello's arrest?

04:26PM 8 A. Yes.

04:26PM 9 Q. Okay. We've already determined Robert Kaiser is
04:26PM 10 connected with the C2-13-0026 file, correct?

04:26PM 11 A. Yes.

04:26PM 12 Q. And then Robert Kaiser connects to Peter Militello in
04:26PM 13 some fashion, correct?

04:26PM 14 **MR. TRIPI:** Objection as to "in some fashion." Let's
04:26PM 15 define how.

04:26PM 16 **THE COURT:** No, overruled.

04:26PM 17 **THE WITNESS:** He connects to Robert Militello --

04:26PM 18 **BY MR. MacKAY:**

04:26PM 19 Q. Robert Mili -- Robert Kaiser connects in some fashion --

04:26PM 20 A. So I'm sorry, to Peter Militello.

04:26PM 21 Q. To Peter Militello.

04:26PM 22 A. In a separate DEA file, there's an investigation
04:26PM 23 documented where Robert Kaiser's the source, 0and Peter
04:27PM 24 Militello is the target.

04:27PM 25 **MR. MacKAY:** Okay. Judge, can I just have one moment

04:27PM 1 to check something?

04:27PM 2 **THE COURT:** Sure.

04:27PM 3 **MR. MacKAY:** I have no further questions, Your Honor.

04:27PM 4 **THE COURT:** Redirect, Mr. Tripi?

04:27PM 5 **MR. TRIPI:** Yes, Your Honor, thank you.

04:27PM 6

04:27PM 7 **REDIRECT EXAMINATION BY MR. TRIPI:**

04:27PM 8 Q. Just briefly, back sort of near the beginning of the

04:27PM 9 cross-examination, you were asked about -- I won't pull it up

04:27PM 10 unless you need it, but Exhibit 100A.1 and some of those --

04:28PM 11 particularly the OCDETF draft of Operation Past Due regarding

04:28PM 12 Frank Tripi; do you recall that?

04:28PM 13 A. I recall.

04:28PM 14 Q. Was Frank Tripi also an associate of Anthony Gerace as

04:28PM 15 far as you understand?

04:28PM 16 A. Yes.

04:28PM 17 Q. Was he also an associate of Michael Masecchia?

04:28PM 18 A. Yes.

04:28PM 19 Q. You were asked other questions about Exhibit 100A.1.

04:28PM 20 While that file had documents regarding the Serio

04:28PM 21 investigation, did it also have information from other

04:28PM 22 investigations?

04:28PM 23 A. Yes, it did.

04:28PM 24 Q. You were asked questions about Anthony Gerace's money

04:28PM 25 that was seized, and his claim that he put in relating to

04:28PM 1 that forfeiture of the \$103,000; is that correct?

04:29PM 2 A. I was.

04:29PM 3 Q. Ultimately, pursuant to your investigation and search
04:29PM 4 warrant, did Anthony Gerace plead guilty and also forfeit
04:29PM 5 that money?

04:29PM 6 A. He did.

04:29PM 7 Q. So regardless of what his claim was, the money was taken
04:29PM 8 by the government, and he pled guilty?

04:29PM 9 A. Yes.

04:29PM 10 Q. Okay. You were asked about people who were in the
04:29PM 11 proffer, the initial proffer July 20th, 2018, regarding
04:29PM 12 Mr. Serio; do you recall those questions?

04:29PM 13 A. I do.

04:29PM 14 Q. And you were asked about Special Agent Casullo's presence
04:29PM 15 in that proffer; is that correct?

04:29PM 16 A. Yes, I was.

04:29PM 17 Q. Who's the -- who invited the individuals to sit in that
04:29PM 18 proffer? You, or the U.S. Attorney's Office?

04:29PM 19 A. The U.S. Attorney's Office.

04:29PM 20 Q. And is it your understanding that Special Agent Casullo
04:29PM 21 had, by that point in time, led an investigation that
04:29PM 22 resulted in the arrest of Kevin Myszka?

04:30PM 23 A. Yes.

04:30PM 24 Q. Is it your understanding by that point in time Kevin
04:30PM 25 Myszka had proffered with Special Agent Casullo?

04:30PM

1 A. Yes.

04:30PM

2 Q. And is it your understanding that Myszka had information

04:30PM

3 about activity at Pharaoh's?

04:30PM

4 A. Yes.

04:30PM

5 Q. Okay. You were asked questions about Ms. Phlycia Hunt;

04:30PM

6 do you recall that?

04:30PM

7 A. I do.

04:30PM

8 Q. Particularly, you were asked questions about her

04:30PM

9 substance abuse; do you remember that?

04:30PM

10 A. Yes.

04:30PM

11 Q. When you met her, was she -- was she in the depths of her

04:30PM

12 addiction at that point?

04:30PM

13 A. Oh --

04:30PM

14 Q. When you first met her, Ms. Hunt.

04:30PM

15 A. No.

04:30PM

16 Q. Was she cordial?

04:30PM

17 A. Yes.

04:30PM

18 Q. Was she responsive?

04:30PM

19 A. Yes.

04:30PM

20 Q. Did her answers make sense in the context of the

04:30PM

21 questions being posed?

04:30PM

22 A. Yes, they did.

04:30PM

23 Q. Was she polite?

04:30PM

24 A. She was.

04:30PM

25 Q. When you showed her the photo that's Exhibit 127, that

04:31PM 1 we've seen a few times in different contexts, did she answer
04:31PM 2 your question and indicate who she knew and why?
04:31PM 3 A. Yes.
04:31PM 4 Q. Based on her information, did you ask other witnesses
04:31PM 5 about the defendant's cocaine use?
04:31PM 6 A. Yes.
04:31PM 7 Q. Did other witnesses corroborate Ms. Hunt's information?
04:31PM 8 A. Yes.
04:31PM 9 Q. Did you ask other witnesses about Tom Doctor's cocaine
04:31PM 10 use?
04:31PM 11 A. Yes.
04:31PM 12 Q. Did other witnesses corroborate Ms. Hunt's information?
04:31PM 13 A. Yes.
04:31PM 14 Q. Through those interviews, did you learn of other
04:31PM 15 instances where the defendant used cocaine with Tom Doctor?
04:31PM 16 A. Yes.
04:31PM 17 Q. You went through the text messages Exhibit 310D, I
04:31PM 18 believe it is, between Mr. Bongiovanni and Mr. Gerace. I
04:31PM 19 won't pull them up again, but you recall those for a couple
04:31PM 20 of days now?
04:31PM 21 A. I do.
04:31PM 22 Q. Do you provide confidential informants or even sources of
04:32PM 23 information with your home address, where your family lives?
04:32PM 24 A. No.
04:32PM 25 Q. You were asked -- you went through the text messages, and

1 you were asked questions about how many meetings there were
2 over a period of years based on only the text messages; do
3 you recall that?

4 A. I do.

5 Q. Were there more phone calls than text messages?

6 A. Yes.

7 **MR. TRIPI:** Ms. Champoux, can we pull up 368B and
8 368I next to one another, please?

9 **BY MR. TRIPI:**

10 Q. Do you see these charts where it has on the left
11 Mr. Gerace's phone number and Mr. Bongiovanni's, and on the
12 right at the top Mr. Bongiovanni's phone number and then
13 Mr. Gerace's?

14 A. Yes.

15 Q. If you look at these, do these show phone calls over a
16 period of years from 2012 all the way through 2017? You
17 start on the one on the right, and work your way through to
18 the one on the left?

19 A. Yes.

20 Q. Are phone calls another way where people can make plans
21 with one another?

22 A. Yes.

23 Q. Did Peter Gerace own a big building on Aero Drive that
24 had a sign called Pharaoh's that people could drive to?

25 A. Yes.

04:33PM 1 Q. Okay. During the text thread, did you see

04:33PM 2 Mr. Bongiovanni give Mr. Gerace his address?

04:33PM 3 A. Mr. --

04:33PM 4 Q. Did Mr. Bongiovanni give Mr. Gerace his home address?

04:33PM 5 A. His home address, yes.

04:33PM 6 Q. Can people visit one another at their homes?

04:33PM 7 A. Yes.

04:33PM 8 Q. Can people visit one another at work?

04:33PM 9 A. Yes.

04:33PM 10 Q. Are there people that you see every day of your life?

04:33PM 11 A. Yes.

04:33PM 12 Q. Do you text them a follow-up text every time and say,

04:34PM 13 hey, it was great to see you?

04:34PM 14 A. No.

04:34PM 15 **MR. TRIPI:** Can we pull up -- we can take these down,

04:34PM 16 pull up Exhibit 97, please, Ms. Champoux.

04:34PM 17 **BY MR. TRIPI:**

04:34PM 18 Q. Now my question -- my question for Exhibits 97, 98, and

04:34PM 19 99, those would be the three memos are generally going to be

04:34PM 20 the same, okay, so I'm not going to pull them all up; is that

04:34PM 21 okay?

04:34PM 22 A. Yes.

04:34PM 23 Q. Who authored the memos?

04:34PM 24 A. Mr. Bongiovanni.

04:34PM 25 Q. Who picked the subject of the memos, the subject header?

04:34PM 1 A. Presumably Mr. Bongiovanni.

04:34PM 2 Q. Who provided the attachments for the memos?

04:34PM 3 A. Mr. Bongiovanni.

04:34PM 4 Q. Who selected what would be the attachment?

04:34PM 5 A. Mr. Bongiovanni.

04:34PM 6 Q. Okay. Look at Exhibit 97, page -- paragraph number 3.

04:34PM 7 Can you read the first sentence just up to the second
04:35PM 8 line where the comma is?

04:35PM 9 A. In an effort to maintain a sense of normal activity and
04:35PM 10 with hopes of not alerting Gerace that something may be
04:35PM 11 wrong.

04:35PM 12 Q. Okay. When you read that, when you said -- when it read
04:35PM 13 in a sense to maintain a sense of normal activity, was that
04:35PM 14 something that stood out to you when you read that memo?

04:35PM 15 A. It tells me there is a pattern of normal activity.

04:35PM 16 Q. Of doing what?

04:35PM 17 A. Of being in contact.

04:35PM 18 Q. So that, the inverse of that is it would be abnormal to
04:35PM 19 not have contact; is that right?

04:35PM 20 A. Yes.

04:35PM 21 **MR. TRIPI:** We can take that down.

04:35PM 22 **BY MR. TRIPI:**

04:35PM 23 Q. You were asked questions about your interview with
04:35PM 24 Mr. Bongiovanni; do you recall that?

04:35PM 25 A. Yes.

04:35PM 1 Q. And you've worked for DOD, NCIS. You've done interviews
04:36PM 2 throughout your law enforcement career going back to 1999; is
04:36PM 3 that fair?

04:36PM 4 A. To -- back to 1997.

04:36PM 5 Q. And you characterized it as maybe thousands of
04:36PM 6 interviews?

04:36PM 7 A. Yeah, I have no idea.

04:36PM 8 Q. Okay. Do you feel like you have some experience in that
04:36PM 9 regard?

04:36PM 10 A. Yes. It's been a routine part of my job for 25, 27
04:36PM 11 years, whatever it is.

04:36PM 12 Q. Now, in terms of recording audio or video, at the time of
04:36PM 13 your interview with Mr. Bongiovanni in June of 2019, was
04:36PM 14 there any his policy regarding that?

04:36PM 15 A. There is an interview recording policy. It does -- it
04:36PM 16 requires recording in a custodial setting.

04:36PM 17 Q. Okay. Now, was Mr. Bongiovanni in custody?

04:36PM 18 A. No.

04:36PM 19 Q. If he decided, you know, Special Agent Ryan, I don't want
04:36PM 20 to talk to you, but obviously -- I'm gonna leave. You would
04:36PM 21 have let him leave, correct?

04:36PM 22 A. Yes.

04:36PM 23 Q. Okay. And, so, based on your experience going back to
04:36PM 24 1997, explain for the jury why that setting was a bad
04:36PM 25 environment for trying to audio or video record the

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1 interview.

2 A. It's because of the sensitivity of --

3 Q. Tell them.

4 A. Oh, sorry.

5 It's because of the sensitivity of the microphones, of --

6 it's not even modern digital recorders. Even a good old

7 reel-to-reel recorder has a really good microphone, and then

8 there's a lot of stuff happening in a relatively open

9 environment, and somebody bangs a water bottle, knocks

10 something over, two people not part of the interview are

11 talking to each about something, it can wash out what you're

12 trying to record at the table.

13 Q. So when you're making your assessments of what would be

14 appropriate, did you decide to take contemporaneous notes?

15 A. Yes.

16 Q. And then did you decide that you would take those notes,

17 and then reduce it to a formal report?

18 A. Yes.

19 Q. Is that what you did in close proximity to the interview?

20 A. Yes.

21 Q. Do you think that was more appropriate, based on your

22 training and experience as an investigator since 1997?

23 A. Yes.

24 Q. If you had not taken notes and relied solely on a

25 recording, and the equipment malfunctioned, would you have

04:38PM 1 any record of what was said during that interview?

04:38PM 2 A. None.

04:38PM 3 Q. While you were speaking to Mr. Bongiovanni, by the time

04:38PM 4 you got in there and started discussing the material, was he

04:38PM 5 calming down from the initial entry?

04:38PM 6 A. That's hard for me to gauge. I think he -- he calmed

04:38PM 7 down steadily in my first ten minutes with him.

04:38PM 8 Q. That's what I was trying to ask. As -- as you sat down,

04:38PM 9 you're at his table, did -- did he have --

04:38PM 10 A. Yes.

04:38PM 11 Q. -- normal conversation with you?

04:38PM 12 A. Yes. Yes.

04:38PM 13 Q. Was your tone of voice elevated?

04:38PM 14 A. No.

04:38PM 15 Q. Was his tone of voice elevated?

04:38PM 16 A. No.

04:38PM 17 Q. Okay. Did his answers make sense in the context of the

04:38PM 18 questions you were asking?

04:38PM 19 A. Yes, they did.

04:38PM 20 Q. Did you understand them?

04:38PM 21 A. Yes.

04:38PM 22 Q. Did you take notes and record it accurately and testify

04:38PM 23 accurately to this jury?

04:38PM 24 A. Yes.

04:38PM 25 Q. Did he ever tell you, hey, I don't understand your

04:38PM 1 question, can you rephrase it?

04:38PM 2 A. I don't know if he did. But if he had, I would have.

04:39PM 3 Q. So as you sit here today, you don't recall that ever

04:39PM 4 happening?

04:39PM 5 A. No.

04:39PM 6 Q. Okay. Now you were asked about the entry on the warrant,

04:39PM 7 and this thing with the flash bang and all that.

04:39PM 8 So I'm going to ask you, during the execution of the

04:39PM 9 search warrant, do you make application for a federal judge

04:39PM 10 to determine whether no-knock entry is permitted? Did you

04:39PM 11 make --

04:39PM 12 A. In that application?

04:39PM 13 Q. Yeah. Did you make an application regarding no-knock

04:39PM 14 entry?

04:39PM 15 A. Yes.

04:39PM 16 Q. And was it authorized?

04:39PM 17 A. It was.

04:39PM 18 Q. And is that based on facts you need to present to a

04:39PM 19 judge?

04:39PM 20 A. Yes.

04:39PM 21 Q. So a judge determined that that was an authorized type of

04:39PM 22 entry, no-knock?

04:39PM 23 A. Yes.

04:39PM 24 Q. Based on your knowledge of Special Agent Bongiovanni,

04:39PM 25 unlike a normal citizen, had he been a 20-year special agent?

04:39PM 1 A. Yes.

04:39PM 2 Q. Had he participated in search warrants?

04:40PM 3 A. Yes.

04:40PM 4 Q. Was he more, in your view, more well versed than a normal

04:40PM 5 citizen for what was happening around him?

04:40PM 6 A. Yes.

04:40PM 7 Q. Because of his training and experience?

04:40PM 8 A. Yes.

04:40PM 9 Q. Now you were asked about Exhibit 3594BJ-1, and that's the

04:40PM 10 report you generated after you -- you looked at that earlier;

04:40PM 11 is that correct?

04:40PM 12 A. Yes.

04:40PM 13 Q. Now, Mr. MacKay asked you about a specific sentence where

04:40PM 14 you wrote Bongiovanni denied he was in a close relationship

04:40PM 15 with Peter Gerace, right?

04:40PM 16 A. Yes.

04:40PM 17 Q. Do you remember that question and those answers?

04:40PM 18 Was there a second half to that sentence that you wrote

04:40PM 19 in your report? Do you recall? Would you like to look at

04:40PM 20 your report?

04:40PM 21 A. Yeah, please.

04:40PM 22 Q. I'm going to show you exhibit -- just for the witness

04:40PM 23 only 3594BJ-1, page 2. It will be the third paragraph down.

04:41PM 24 Do you remember looking at that?

04:41PM 25 A. Yes.

04:41PM 1 Q. Do you see the part where you wrote "and said?"

04:41PM 2 A. Yes.

04:41PM 3 Q. Those words that follow, the rest of that sentence, were
04:41PM 4 those words that Mr. Bongiovanni said?

04:41PM 5 A. Yes.

04:41PM 6 Q. What were they?

04:41PM 7 A. That there was --

04:41PM 8 **MR. MacKAY:** Judge, I'm going to object at this
04:41PM 9 point. He's just reading from something not in evidence.

04:41PM 10 **MR. TRIPI:** It's the Rule of Completeness. He
04:41PM 11 brought out the first half of this particular statement, and
04:41PM 12 so there's a second half of the statement, Your Honor.

04:41PM 13 **MR. MacKAY:** He can refresh his recollection.

04:41PM 14 **THE COURT:** Exactly.

04:41PM 15 **MR. TRIPI:** Okay. We'll do that. I apologize.

04:41PM 16 We'll take it down.

04:41PM 17 **BY MR. TRIPI:**

04:41PM 18 Q. Does it refresh your recollection as to the second half
04:41PM 19 of that sentence?

04:41PM 20 A. Yes.

04:41PM 21 Q. What did Mr. Bongiovanni say?

04:41PM 22 A. That there were a lot of times that he saw Peter Gerace
04:41PM 23 and went the other way.

04:41PM 24 Q. And did he also say Peter Gerace was a pain in the ass?

04:41PM 25 A. Yes.

04:42PM 1 Q. Did you also write that word for word in your notes?

04:42PM 2 A. Yes.

04:42PM 3 Q. Now, you were also asked questions about -- do you

04:42PM 4 remember later on when you were asking him about why -- the

04:42PM 5 first time when you asked him about why he took the Serio

04:42PM 6 file home?

04:42PM 7 A. Yes.

04:42PM 8 Q. And Mr. MacKay asked you about the phrase "up and up,"

04:42PM 9 and whose words those were, correct?

04:42PM 10 A. Yes.

04:42PM 11 Q. When you wrote it in your notes, if you wrote it in your

04:42PM 12 notes contemporaneous, would those be the defendant's words?

04:42PM 13 A. It could be. But it's also possible that that's me using

04:42PM 14 a version or --

04:42PM 15 Q. Okay.

04:42PM 16 A. -- a version of shorthand to keep up.

04:42PM 17 Q. I'm going to show you 3594BJ-2, page 8, it's at the

04:42PM 18 bottom. I'm going to show you this to refresh your

04:42PM 19 recollection as to whose words up and up were. Take a

04:42PM 20 minute, read it to yourself, and when you're done, look up.

04:43PM 21 Does seeing your actual notes refresh your recollection

04:43PM 22 at all?

04:43PM 23 A. It does, but it would still -- it's too difficult for me

04:43PM 24 to say that's an exact quote.

04:43PM 25 Q. Okay. What did you mean by "keep up?" When you're

1 writing notes about keeping up?

2 A. Keeping notes, and keeping up with the conversation.

3 Q. When the defendant said that Peter Militello was his

4 source, is there any doubt in your mind he was telling you

5 Militello was his C.I. in the Serio case?

6 A. No.

7 Q. Now during the interview, once you became aware of the

8 Serio file, did you have a chance to go through every page

9 and every document that was in there while you sat in

10 Mr. Bongiovanni's living room?

11 A. No.

12 Q. If you had known everything that was in that file, would

13 you have had a lot more questions for Mr. Bongiovanni that

14 day back in June?

15 A. Yes.

16 **MR. TRIPI:** Just one moment, please, Your Honor.

17 Nothing further, Judge.

18 **THE COURT:** Mr. MacKay?

19 **MR. MacKAY:** I should be able to be very short,

20 Judge.

21 **THE COURT:** Okay.

22 **MR. MacKAY:** Ms. Champoux, can we pull up side by

23 side Government Exhibit 368B and I.

24

25

RECROSS-EXAMINATION BY MR. MacKAY:

Q. Okay. Agent Ryan, showing you again, those are the phone charts you saw on redirect, correct?

A. Yes.

Q. Okay. You understand, as you sit here today, that these don't necessarily represent connected phone calls on each end, correct?

A. I don't think it shows up in the call detail record if it's not connected. It would have at least connected to voicemail I think.

Q. Okay. But, again, you don't know whether these calls that are reflected here are ones that go to voicemail, correct?

A. You'd have to look at the records behind this --

Q. Right.

A. -- to find --

Q. And if --

A. -- the duration of the call.

Q. -- somebody came in and prepared those records, they'd be the one to speak to that, correct?

A. It --

Q. If somebody prepared those two exhibits here, they would be the one who would know about those, correct?

A. You're talking about a different person?

Q. Yes.

04:45PM 1 A. Yes.

04:45PM 2 **MR. MacKAY:** Okay. You can take those down,

04:45PM 3 Ms. Champoux. Thank you.

04:45PM 4 **BY MR. MacKAY:**

04:45PM 5 Q. You talked about how -- well, you were asked questions by
04:46PM 6 Mr. Tripi about what would happen if you had just recorded an
04:46PM 7 interview, and the equipment malfunctioned; do you remember
04:46PM 8 that?

04:46PM 9 A. Yes.

04:46PM 10 Q. You'd have no way of accessing that recording again,
04:46PM 11 correct?

04:46PM 12 A. If it malfunctions, then there is no recording, so yes.

04:46PM 13 Q. So, but nothing here precluded you from doing a rough
04:46PM 14 recording and taking notes at the same time, correct?

04:46PM 15 A. You could.

04:46PM 16 Q. And finally, you talked a little bit about how -- well,
04:46PM 17 before I ask that.

04:46PM 18 As you sit here today, fair to say you don't remember the
04:46PM 19 conversation word for word, correct?

04:46PM 20 A. No.

04:46PM 21 Q. I mean, it was four and a half years ago or so, correct?

04:46PM 22 A. That's correct.

04:46PM 23 Q. And finally, you were asked about, you know, that there
04:46PM 24 were other materials, there were materials from other
04:46PM 25 investigations present in the Redweld file; do you remember

04:46PM 1 that?

04:46PM 2 A. Yes.

04:46PM 3 Q. In your experience as a DEA agent, there's coordination
04:47PM 4 in the office between different ongoing investigations,
04:47PM 5 correct?

04:47PM 6 A. Sometimes, yeah.

04:47PM 7 Q. Well, for example, people in the same group share
04:47PM 8 information about different ongoing investigations, correct?

04:47PM 9 A. They could.

04:47PM 10 Q. There's an attempt to, in your experience, see how one
04:47PM 11 agent's investigation might affect another's, correct?

04:47PM 12 A. Sure.

04:47PM 13 Q. And in that capacity, information is exchanged between
04:47PM 14 agents, correct?

04:47PM 15 A. Sure.

04:47PM 16 **MR. MacKAY:** Okay. No further questions, Your Honor.

04:47PM 17 **THE COURT:** Anything more, Mr. Tripi?

04:47PM 18 **MR. TRIPI:** May I have just one question, Judge?

04:47PM 19 **THE COURT:** Of course.

04:47PM 20

04:47PM 21 **RE-REDIRECT EXAMINATION BY MR. TRIPI:**

04:47PM 22 Q. The statements that the defendant made to you on
04:47PM 23 June 6th, 2019, do you remember those -- those words being
04:47PM 24 uttered as documented in your report and as you've testified
04:47PM 25 to this jury?

04:47PM 1 A. I remember the interview, yes.

04:47PM 2 Q. And what you've told this jury the defendant said, did he
04:47PM 3 say it, and have you relayed it accurately?

04:47PM 4 A. Yes, I have, and yes, I do.

04:47PM 5 **MR. TRIPI:** Nothing further, Your Honor.

04:48PM 6 **MR. MacKAY:** Nothing further, Your Honor.

04:48PM 7 **THE COURT:** Okay. You can step down, sir, thank you.

04:48PM 8 **THE WITNESS:** Thank you, Judge.

04:48PM 9 (Witness excused at 4:48 p.m.)

10 (Excerpt concluded at 4:47 p.m.)

11 * * * * *

12
13 **CERTIFICATE OF REPORTER**

14
15 In accordance with 28, U.S.C., 753(b), I
16 certify that these original notes are a true and correct
17 record of proceedings in the United States District Court for
18 the Western District of New York on March 18, 2024.

19
20
21 s/ Ann M. Sawyer

22 Ann M. Sawyer, FCRR, RPR, CRR
23 Official Court Reporter
24 U.S.D.C., W.D.N.Y.
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MARCH 18, 2024

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